

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2006

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/806646 Patent No.: 6,885,875 B1

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

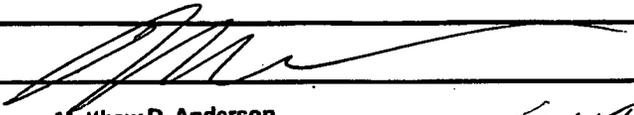
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: Ok to Enter


Matthew D. Anderson
Supervisory Patent Examiner

SPE

2618
Art Unit

NOV 21 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Reed Smith Hazel & Thomas LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

In re Application of NEUSS :
U.S. Application No.: 09/806,758 :
Int. Application No.: PCT/EP00/04658 :
Int. Filing Date: 22 May 2000 :
Priority Date: 20 May 1999 :
Attorney Docket No.: THIE.0009USA :
For: RADIALLY EXPANDABLE VESSEL :
SUPPORT :

DECISION

This is in response to applicant's "Petition to Correct Inventorship Under 37 CFR §1.48(a)" filed 09 August 2001, which is being treated as a petition under 37 CFR 1.497(d). The requisite petition fee has been provided.

BACKGROUND

On 22 May 2000, applicant filed international application PCT/EP00/04658, which claimed priority of an earlier Germany application filed 20 May 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 30 November 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 November 2001.

On 03 April 2001, applicant filed national stage papers in the United States. The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 August 2001, applicant filed the present petition along with an executed declaration.

DISCUSSION

The declaration filed 09 August 2001 lists Michael Orlowski as an additional inventor beyond that indicated in the international application. The DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which indicates that Orlowski has been added as an inventor.

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite fee has been provided.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the statement by Orlowski states that EuroCor GmbH is the assignee of the present invention. However, the assignee has not established ownership of the invention as set forth in 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained pursuant to 37 CFR 1.136(a). Failure to timely file a proper response will result in ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

DISCUSSION

The DO/EO/US has received a Notification of the Recording of a Change (Form PCT/IB/306) from the International Bureau which indicates that Michael Orłowski has been added as an inventor. Thus, the declaration filed 09 August 2001 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the petition is **DISMISSED AS MOOT**.

This application is being forwarded to the DO/EO/US for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a translation of the international application into English and the appropriate late filing surcharge must be submitted.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614

Facsimile: 703-308-6459

02 AUG 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHITE & CASE LLP
Patent Dept.
1155 Avenue of the Americas
New York, NY 10036

In re Application of
FOLESTAD, Staffan *et al*
Application No.: 09/806,795
PCT No.: PCT/SE01/00023
Int. Filing Date: 08 January 2001
Priority Date: 13 January 2000
Attorney Docket No.: 1103326-0660
For: METHOD AND APPARATUS FOR
MONITORING

DECISION

This decision is in response to applicants' "Petition for Withdrawal of Premature Office Action" filed via facsimile on 07 May 2002 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 08 January 2001, applicants filed international application PCT/SE01/00023 claiming priority to a Swedish patent application filed 13 January 2000.

On 04 April 2001, applicants filed a transmittal letter requesting entry into the national stage in the United States under 35 U.S.C. 371 at the expiration of the applicable time limit under PCT Articles 22 and 39(1) which was accompanied by, *inter alia*, a signed declaration, a check of \$1270.00 and authorization to charge Deposit Account No. 23-1703 for any additional fees.

On 19 July 2001, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, *i.e.*, 15 July 2002 (13 July 2002 was a Saturday).

On 17 December 2001, the United States Designated/Elected Office mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating that applicants completed the 35 U.S.C. 371 requirements on 04 April 2001.

On 10 April 2002, an Office Action Summary was mailed to applicants.

On 07 May 2002, applicants filed the instant petition via facsimile to withdraw the Office Action Summary as premature.

DISCUSSION

A review of the above-captioned application verifies that a timely Demand was filed in the underlying international application, PCT/SE01/00023. Moreover, applicants did not request express entry into the national stage pursuant to 35 U.S.C. 371(f) on the transmittal letter filed 04 April 2001.

Therefore, the provisions of PCT Article 39 and 37 CFR 1.495 apply. No processing of the national stage application is appropriate until the applicable time limit under PCT Article 39(1)(a). See PCT Article 40.1.

In this case, applicants have thirty-one months from the earliest claimed priority date to amend the Claims, Description and Drawings pursuant to PCT Article 41 and PCT Rule 78.1, *i.e.*, 13 August 2002.

DECISION

For the reasons listed above, applicants' petition to withdraw any Office Action as premature is hereby **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed 17 December 2001 and the Office Action Summary mailed 10 April 2001 are both **VACATED**.

This application will be forwarded to the DO/EO/US for issuance of a new Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903). Then this application will be delivered to Technology Center 1700 for further processing in accordance with this decision.



Leonard Smith
PCT Legal Examiner
PCT Legal Office



James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:071905

DATE : July 19, 2005

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,836,925

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-910

Palm location 7590 - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:



SPE: John Kim

Art Unit 1744

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : 6,836,925 **B1**
DATED : January 4, 2005
INVENTOR(S) : Swanepoel

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

Column 3, line 29, "substantially" should be removed.

Column 3, line 31, "5*E0.05378)*L-5.25" should read -- 5*E+0.05378)*L-5.25--.

Column 4, line 10, "substantially" should be removed.

Column 4, line 38, "substantially" should be removed.

MAILING ADDRESS OF SENDER: Gerald E. McGlynn, III
Bliss McGlynn, P.C.
2075 West Big Beaver Road
Suite 600
Troy, MI 48084

PATENT NO. 6,836,925

No. of additional copies



FEB 14 2005



RECEIVED
PILLSBURY WINTHROP LLP/VA

DEC 12 2001

Robin L. Teskin
Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, VA 22102

DEC 17 2001

CL 82137 MT# 279281
ATTY(S) RRT
DUE: 2-12-02
DKT:BY (1) DAW (2) LMJ

In re Application of
WELLSTEIN, Anton, et al.
Application No.: 09/806,820
PCT No.: PCT/US99/23220
Int. Filing Date: 06 October 1999
Priority Date: 06 October 1998
Attorney Docket No.: P0279281
For: DETECTION OF PLEIOTROPHIN

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicant's "PETITION PURSUANT TO 37 CFR §1.47" filed in the United States Patent and Trademark Office (USPTO) on 08 November 2001.

BACKGROUND

On 06 October 1999, applicants filed international application PCT/US99/23220, which claimed a priority date of 06 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 May 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 April 2001.

On 05 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration.

On 08 May 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 November 2001, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a five-month extension of time; the fee for a five-month extension of time; a declaration of inventor executed by Anton Wellstein; and a copy of an email to one inventor dated 08 November 2001 at 12:08 PM.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1) and (4) have been met. (1) The petition fee of \$130 has been paid. (4) The declaration submitted complies with 37 CFR 1.47(a).

Item (2) has not been met. It appears applicants are trying to argue that the nonsigning inventors cannot be reached after diligent effort. It is noted that had this petition been based on the refusal of inventors to sign the declaration, applicants would have had to demonstrate that *bona fide* attempt was made to present a copy of the application papers to the inventors. MPEP 409.03(d).

Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. It is noted that "copies of documentary evidence, such as a internet searches, certified return mail receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached" should be included. MPEP §409.03(d). Such documentary evidence has not been submitted.

The only statement included is the petition signed by Robin L. Teskin. It states that "we then learned of failed attempts by persons from Georgetown University to locate and obtain signatures of non-signing inventors," and "we were advised that the declaration had been sent to the inventors' last known addresses, but was not returned." However, "a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made." MPEP §409.03(d). The statement of Robin L. Teskin is general and is second hand. It recites what was told to and learned by "we." "The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein." MPEP §409.03(d).

The only documentation of any attempt to contact any of the nonsigning inventors is the email from Robin L. Teskin to Dr. Vigny, dated 08 November 2001 at 12:08 PM. Assuming the email arrived immediately, it would have arrived at 6:08 PM in Paris. The email address is a business email address. This was not well calculated to make contact with Dr. Vigny that day, the day this petition was filed.

Item (3) has not been met. The petition does not state the last known mailing address of the nonsigning inventors. It merely references the declaration. However, even if the addresses listed in the declaration had been listed on the petition, the addresses would not be acceptable.

The last known address should be the last address at which the inventor customarily received mail. MPEP §409.03(e) and §605.03. "Ordinarily, the last known address will be the last known residence of the nonsigning inventor." MPEP §409.03(e). Further, MPEP §605.03 requires that the inventor's most recent home address be given to enable the Office to communicate directly with the inventor as necessary. Additionally, "other addresses at which the nonsigning inventor may be reached should also be given." MPEP §409.03(e).

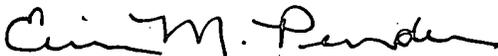
Additionally, applicants submitted a petition and petition fee for a five month extension for responding to the Notice of Missing Requirements Under 35 USC 371. Only a four month extension was required. The \$260 surplus will be credited to deposit account no. 03-3975.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Affairs.



Erin M. Pender
Attorney Advisor
PCT Legal Affairs



Richard Cole
PCT Legal Examiner
PCT Legal Affairs

Telephone: (703) 305-0455
Facsimile: (703) 308-6459



MAR 08 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robin L. Teskin
Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, VA 22102

In re Application of	:	
WELLSTEIN, Anton, et al.	:	
Application No.: 09/806,820	:	DECISION ON
PCT No.: PCT/US99/23220	:	
Int. Filing Date: 06 October 1999	:	PETITION UNDER
Priority Date: 06 October 1998	:	
Attorney Docket No.: P0279281	:	37 CFR 1.47(a)
For: DETECTION OF PLEIOTROPHIN	:	

This is a decision on applicants' "Renewed Petition Pursuant to 37 CFR §1.47" filed in the United States Patent and Trademark Office (USPTO) on 12 February 2002.

BACKGROUND

On 06 October 1999, applicants filed international application PCT/US99/23220, which claimed a priority date of 06 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 May 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 April 2001.

On 05 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration.

On 08 May 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 November 2001, applicants submitted a petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a five-month extension of time; the fee for a five-month extension of time; a declaration of inventor executed by Anton Wellstein; and a copy of an email to one inventor dated 08 November 2001 at 12:08 PM.

On 12 December 2001, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants' petition without prejudice.

On 12 February 2002, applicants submitted "Renewed Petition Pursuant to 37 CFR §1.47" accompanied by, *inter alia*, an executed declaration.

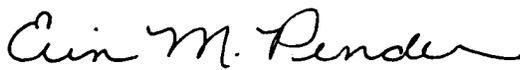
DISCUSSION

The declaration executed by the inventors, submitted with the renewed petition, meets the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. 371 date of **12 February 2002**.


Erin M. Pender
Attorney Advisor
PCT Legal Affairs


Richard Cole
PCT Legal Examiner
PCT Legal Affairs

Telephone: (703) 305-0455
Facsimile: (703) 308-6459



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ALEXANDRIA, VA 22313-1450
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WILLIAM A BLAKE
JONES TULLAR & COOPER
PO BOX 2266 EADS STATION
ARLINGTON, VA 22202

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SEP 22 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Frederick Johannes Bruwer :
Application No. 09/806,860 :
Filed: July 2, 2001 :
Attorney Docket No. P.19092/MAJR :

This is a decision on the petition, filed September 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 referred to Technology Center AU 2836 for further processing of the request for continued examination under 37 CFR 1.114 filed September 16, 2004.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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



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ALEXANDRIA, VA 22313-1450
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Paper No. 23

DeWitt Ross & Stevens
Firstar Financial Center, Ste. 401
8000 Excelsior Drive
Madison, WI 53717-1914

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OCT 15 2003

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Gabriel Stavros et al. :
Application No. 09/806,955 :
Filed: July 11, 2001 :
Attorney Docket No. 78104.023 :

This is a decision on the petition under 37 CFR 1.137(b) filed August 22, 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 December 16, 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 March 17, 2003.

The application file is being forwarded to Technology Center AU 1644 for further processing.

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



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

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Tanaka et al. :
Application No. 09/806,992 : ON PETITION
Filed: 6 April, 2001 :
Attorney Docket No. 205190USOXP :C

This is a decision on the papers filed on 31 March, 2004, styled as a petition to withdraw from issue and a petition to substitute a correct terminal disclaimer, which are collectively treated as a request under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed on 17 December, 2003, contains an error in that the terminal disclaimer does not name all assignees, and has filed a substitute terminal disclaimer. As the examiner has concurred, the requested relief can be favorably considered.

This application is being forwarded to Technology Center 1700 for correction of PALM and file records consistent with this decision.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/06

TO SPE OF : ART UNIT **1713**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/807069 6933350

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, return to employee (named below) via PUBSCofC Team in **MADRAS**.

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



Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:



1713

SPE

Art Unit



JAN 22 2002

Frishauf, Holtz, Goodman, Langer & Chick, P.C.
767 Third Avenue - 25th Floor
New York, NY 10017-2023

In re Application of	:	
RITTER, Klaus, et al.	:	
Application No.: 09/807,106	:	
PCT No.: PCT/AT99/00240	:	DECISION ON
Int. Filing Date: 05 October 1999	:	
Priority Date: 09 October 1998	:	PAPERS
Attorney's Docket No.: 01099/TL	:	
For: METHOD AND PLANT FOR	:	UNDER 37 CFR 1.42
CONTINUOUSLY PRODUCING	:	
CONSTRUCTION ELEMENTS	:	
APPARATUS	:	

This is a decision on applicants' "Response to Notification of Missing Requirements," submitted 02 August 2001. A review of the Declaration reveals an indication that the joint inventor Gerhard Ritter is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 05 October 1999, applicants filed international application PCT/AT99/00240, which claimed a priority date of 09 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 April 2000. On 22 April 2000, a demand for international preliminary examination was filed with the International Bureau within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 09 April 2001.

On 09 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 04 May 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for late filing of the oath or declaration were required.

On 06 August 2001, applicants filed "Response to Notification of Missing Requirements," accompanied by, *inter alia*, the surcharge for late filing of the oath or declaration and a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, Ms. Ingrid Ritter signed the declaration as "appointed administrator for inventor Gerhard RITTER, deceased." This is acceptable. However, the declaration lists residence, postal address and citizenship for only one of them. The declaration must list the citizenship, residence and postal address for both Ms. Ritter and inventor Ritter. See 37 CFR 1.497 and 37 CFR 1.63.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Boris Milef
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459



Frishauf, Holtz, Goodman, Langer & Chick, P.C.
767 Third Avenue - 25th Floor
New York, NY 10017-2023

In re Application of	:	
RITTER, Klaus, et al.	:	
Application No.: 09/807,106	:	
PCT No.: PCT/AT99/00240	:	DECISION ON
Int. Filing Date: 05 October 1999	:	
Priority Date: 09 October 1998	:	PAPERS
Attorney's Docket No.: 01099/TL	:	
For: METHOD AND PLANT FOR	:	UNDER 37 CFR 1.42
CONTINUOUSLY PRODUCING	:	
CONSTRUCTION ELEMENTS	:	
APPARATUS	:	

This is a decision on applicants' "Renewed Submission Under 37 CFR 1.42," submitted 01 April 2002.

BACKGROUND

On 05 October 1999, applicants filed international application PCT/AT99/00240, which claimed a priority date of 09 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 April 2000. On 22 April 2000, a demand for international preliminary examination was filed with the International Bureau within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 09 April 2001.

On 09 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 04 May 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for late filing of the oath or declaration were required.

On 06 August 2001, applicants filed "Response to Notification of Missing Requirements," accompanied by, *inter alia*, the surcharge for late filing of the oath or declaration and a declaration.

On 22 January 2002, the Office mailed Decision On Papers Under 37 CFR 1.42, refusing the request for status.

On 01 April 2002, applicants filed "Renewed Submission Under 37 CFR 1.42," accompanied by, *inter alia*, a new declaration. The papers included a certificate of mailing indicating that the papers were deposited in first class mail on 21 March 2002.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, Ms. Ingrid Ritter signed the declaration as "appointed administrator for inventor Gerhard RITTER, deceased." This is acceptable. Additionally, the declaration now lists the residence, postal address and citizenship of each of the inventors and of the legal representative.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing consistent with this decision. The application has an international filing date of 05 October 1999 under 35 U.S.C. §363 and a date of 01 April 2002 under 35 U.S.C. §371.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459



FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE 10TH FL.
NEW YORK NY 10151

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Tetsujiro Kondo et al :
Application No. 09/807,114 :
Filed: June 15, 2001 :
Attorney Docket No. 450106-02645 :

ON PETITION

This is a decision on the petition, filed July 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 23, 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 2674 will consider the request for continued examination under 37 CFR 1.114.

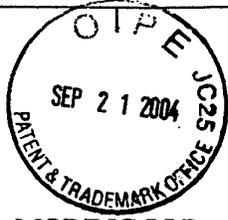
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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).

6PE



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ALEXANDRIA, VA 22313-1450
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COPY

Paper No. 032004

49845

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAR 24 2004

In re Application of
Joerge Baumgart et al.
Application No.: 09/807,125
Filed: April 9, 2001
For: MEASURING OF SMALL, PERIODIC UNDULATIONS
IN SURFACES

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

FOA/NOA: 6/30/04

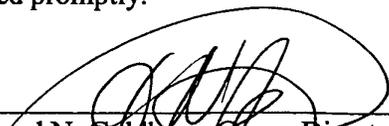
The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon 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 Fee(s) 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 and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed Russell Adams, Supervisory Patent Examiner, at (571) 272-2112.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.


Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

PREVIOUSLY
DOCKETED



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

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DEC 10 2008

In re Patent No. 7,058,148 :
Issue Date: June 6, 2006 :
Application No. 09/807,131 : **ON PETITION**
Filed: May 23, 2001 :
Attorney Docket No. P-277995 :

This is a decision on the petition filed September 3, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner should note that the Revocation and Power of Attorney filed September 3, 2008, has not been accepted, as it is filed on behalf of the assignee and does not include an appropriate statement under 37 CFR 3.73(b). However, in accordance with 37 CFR 1.34(a), the signature of Christine H. McCarthy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. However, if Ms. McCarthy desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The 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.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTINE H. MC CARTHY
BARNES & THORNSBURG LLP
750 17TH STREET, N.W., SUITE 900
WASHINGTON, DC 20006-4675

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



JAN 04 2002

Alan D. Kamrath, Esq.
Rider, Bennett, Egan & Arundel, LLP
333 South Seventh Street
Suite 2000
Minneapolis, MN 55402

In re Application of :
RASMUSSEN, Erik :
Application No.: 09/807,175 :
PCT Application No.: PCT/DK99/00543 :
International Filing Date: 12 October 1999 :
Priority Date: 12 October 1998 :
Attorney Docket No.: P199800874 :
For: CLEANING AND/OR TREATMENT DEVICE :

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 01 October 2001 is **GRANTED**.

BACKGROUND

On 12 October 1999, applicant filed an international application, No. PCT/DK99/00543, which claimed a priority date of 12 October 1998. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 April 2000.

On 25 April 2000, a demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 12 April 2001.

On 06 April 2001, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a translation of the international application and a preliminary amendment.

On 03 August 2001, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that applicant had failed to provide the basic national fee within thirty months of the priority date.

On 01 October 2001, applicant filed a petition to revive, accompanied by, *inter alia*, the requisite petition fee, the basic national fee and a declaration.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on 12 October 1999. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The \$130.00 surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(f) will be charged to counsel's Deposit Account No. 50-0620 as authorized in the petition filed 01 October 2001.

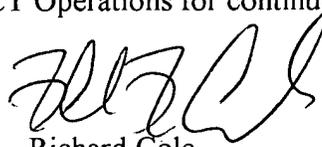
CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 12 October 1999 under 35 U.S.C. §363 and a date of 01 October 2001 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



Erin M. Pender
Attorney Advisor
PCT Legal Office



Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-0455
Facsimile: (703) 308-6459



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**KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004**

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APR 17 2009

OFFICE OF PETITIONS

In re Application of :
Joerg Schwenk :
Application No. 09/807,181 : **DECISION ON PETITION**
Filed: June 15, 2001 :
Attorney Docket No. 2345/152 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 22, 2006, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 23, 2006. See MPEP 1215.04. A Notice of Abandonment was mailed April 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$790.00 (previously submitted on April 2, 2007), and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,500.00; and (3) a proper statement of unintentional delay.

Petitioner wishes to receive a refund of the petition fee as she believes the abandonment was a result of USPTO error. 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application 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. The instant application was not improperly abandoned and therefore does not qualify for withdrawal of the holding of abandonment without payment of the petition fee.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2135 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted on April 2, 2007 in accordance with 37 CFR 1.114.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/23/2010

Applicant : Joerg Schwenk : DECISION ON REQUEST FOR
Patent Number : 7606369 : RECALCULATION of PATENT
Issue Date : 10/20/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/807,181 : OF WYETH
Filed : 06/15/2001 :
:
:

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.



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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS LLP
1725 K STREET NW, SUITE 1000
WASHINGTON, DC 20006

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Masahiko Nakamura :
Application No. 09/807,183 : DECISION GRANTING PETITION
Filed: April 10, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 001436 :

This is a decision on the petition, filed October 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of an 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 or the amount 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).

SEP 26 2001



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

Jane Massey Licata
Licata & Tyrell P.C.
66 E. Main Street
Marlton, New Jersey 08053

In re Application of	:
Salceda et al.	:
Application No.: 09/807,201	:
PCT No.: PCT/US99/24331	:
Int. Filing Date: 19 October 1999	: DECISION
Priority Date: 19 October 1998	:
Attorney's Docket No.: DEX-0196	:
For: METHOD OF DIAGNOSING, MONITORING,	:
STAGING, IMAGING AND TREATING	:
PROSTATE CANCER	:

This decision is being sent to applicant in order to put applicant on notice of the fact that the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was issued prematurely. The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed on 22 May 2001, has been VACATED.

BACKGROUND

On 19 October 1999, applicants filed international application PCT/US99/24331, which claimed priority to an earlier United States application, filed 19 October 1998. A copy of the international application was communicated from the International Bureau on 27 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 May 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the national stage in the United States expired at midnight on 19 April 2001.

On 10 April 2001, applicants timely filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a transmittal letter and the basic national fee. The oath/declaration as required by 35 U.S.C. 371(c)(4) was not filed. These papers were assigned Serial No. 09/807,201.

On 22 May 2001, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the basic national fee had not been received by 30 months from the earliest priority date.

DISCUSSION

35 U.S.C. 371(c) states:

The applicant shall file in the Patent and Trademark Office

- (1) the national fee provided in section 41(a) of this title;
- (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;
- (3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;
- (4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants;
- (5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.

On 10 April 2001, applicant filed a letter for entry into the national stage in the United States, which was accompanied by an unexecuted declaration and power of attorney and an authorization to charge the basic national fee to a credit card and/or the deposit account. The credit card charge was denied. However, there were sufficient funds in the deposit account to pay the basic national fee of \$860 and the extra claim fee of \$320.

Further, on 25 April 2001, applicant filed the executed declaration and power of attorney. Applicant authorized the USPTO to charge the deposit account an additional \$130 to cover the fee for filing the declaration later than 30 months from the earliest claimed priority date.

CONCLUSION

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed on 22 May 2001, has been VACATED.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 25 April 2001.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office



Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459



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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUN 23 2003

CONNOLLY BOVE LODGE & HUTZ LLP
1220 N MARKET STREET
PO BOX 2207
WILMINGTON, DE 19899

#13

In re Application of Vincent Wilmet et al. :
Serial No.: 09/807,285 :
Filed: June 19, 2001 : WITHDRAWAL OF ABANDONMENT
Attorney Docket No.: S-98/24 :

This is in response to applicants' petition under 37 CFR 1.181, filed April 17, 2003, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed April 16, 2002.

A review of the file history shows that the examiner mailed an Office action (non-final rejection) to applicant on April 16, 2002, setting a three month shortened statutory time period for reply. On April 4, 2003 the examiner mailed a Notice of Abandonment indicating that no reply had been received. Applicant states that a response, including amendment, petition for extension of time and information disclosure statement, was filed on August 9, 2002, as evidenced by the properly executed Certificate of Mailing on the response. Applicant provides a copy of the submitted response with the petition, and also a copy of the date stamped return post card. In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the response.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Bell (for)

Bruce Kisliuk
Director, Technology Center 1600



SEP 28 2000

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Joseph W. Schmidt
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Iniondale, NY 11553

In re Application of	:	
RAY	:	
Application No.: 09/807318	:	DECISION ON
PCT No.: PCT/US98/14146	:	
Int. Filing Date: 09 July 1998	:	PETITION UNDER
Priority Date: 09 July 1997	:	
Attorney's Docket No.: 203-2368 PCT	:	37 CFR 1.137(b)
For: Interbody Device And Method For Treatment	:	
Of Osteoporotic Vertebral Collapse	:	

This is a decision on applicants' "Petition Under 37 CFR 1.137(b)" filed on 26 October 2000.

BACKGROUND

International application PCT/US98/14146 was filed on 09 July 1998, and claimed an earlier priority date of 09 July 1997. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired as of midnight on 09 January 2000. The international application became abandoned with respect to the United States for failure to timely pay the basic national fee.

On 26 October 2000, applicants filed the instant petition.

DISCUSSION

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

Regarding requirement (1), the petition is not accompanied by the required

reply in the form of the basic national fee.

Requirement (2) has been satisfied by the payment of the required petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Concerning requirement (4), no terminal disclaimer is required in this case, since the international filing date of PCT/US97/24166 was later than 8 June 1995.

Since the required reply has not been filed, it would not be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Richard Cole
PCT Legal Examiner
PCT Legal Office



George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459



MAR 29 2002

Joseph W. Schmidt
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Iniondale, NY 11553

In re Application of	:	
RAY	:	
Application No.: 09/807318	:	DECISION ON
PCT No.: PCT/US98/14146	:	
Int. Filing Date: 09 July 1998	:	PETITION UNDER
Priority Date: 09 July 1997	:	
Attorney's Docket No.: 203-2368 PCT	:	37 CFR 1.137(b)
For: Interbody Device And Method For Treatment	:	
Of Osteoporotic Vertebral Collapse	:	

This is a decision on applicants' renewed petition under 37 CFR 1.137(b) filed on 07 January 2002.

The petition was previously dismissed on the basis that petitioner had not filed the required reply in the form of the basic national fee. The instant renewed petition was accompanied by the basic national fee. As such, the requirements of 37 CFR 1.137(b) have now been satisfied.

The petition under 37 CFR 1.137(b) to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** with respect to the national stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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Fax: (703) 308-6459



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Commissioner for Patents
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Paper No. 14

**RATNER PRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980**

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SEP 10 2003

OFFICE OF PETITIONS

In re Application of :
Martyn Vincent Twigg :
Application No. 09/807,343 :
Filed: July 12, 2001 :
Attorney Docket No. JMYT-237US :

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

This is a decision on the petition, filed September 9, 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 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to 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 1754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement stated to have been filed of even date.

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 Fees(s) Due (PTOL-85).



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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Henningsen :
Application No. 09/807,394 : ON PETITION
Filed: April 12, 2001 :
Attorney Docket No. GRP-0001 :
For: RAPID PROTOTYPING APPARATUS :
AND METHOD OF RAPID PROTOTYPING :

This is a decision on the petition under 37 CFR 1.181, filed May 8, 2006 (certificate of mailing date May 5, 2006), requesting that the Office withdraw the holding of abandonment of the above-identified application. This decision will address the petition under 37 CFR 1.28(c), filed May 8, 2006 (certificate of mailing date May 5, 2006), as well.

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

The petition under 37 CFR 1.28(c) is **GRANTED**.

This application was held abandoned for failure to properly and timely respond to the non-final Office action, mailed May 9, 2005, which set forth an extendable three (3) month period for reply. It is noted that the May 9, 2005 non-final Office action was the second non-final Office action after an RCE was filed. Applicant filed a Notice of Appeal and a one month extension of time on July 13, 2005 (certificate of mailing date July 11, 2005). The Office contended that this application became abandoned on September 12, 2005 for failure to file a proper follow-up submission within two months of the filing of the Notice of Appeal. A Notice of Abandonment was mailed on February 22, 2006.

Petitioners assert an Appeal Brief and a five month extension of time were timely filed February 21, 2006 (certificate of mailing date February 13, 2006). The undersigned finds this assertion completely convincing as these documents are present in the application file and Office financial records shows that the required fees were charged.

The petition under 37 CFR 1.181 is **GRANTED** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Regarding the change of entity status, filed May 8, 2006 (certificate of mailing date May 5, 2006), on September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Office records have been changed to show that applicant is no longer a small entity.

Applicant was charged two large entity 5 month extension of time fees. Deposit account no. 06-1130 will be credited \$2,160.00.

Accordingly, the application file will be forwarded to Technology Center A.U. 1722 for consideration of the Appeal brief filed February 21, 2006 (certificate of mailing date February 13, 2006).

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


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



**GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191**

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Kazutoshi Yasunaga et al	:	
Application No. 09/807,427	:	ON PETITION
Filed: April 20, 2001	:	
Attorney Docket No. P20934	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 29, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2655 for processing of the request for continued examination under 37 CFR 1.114.

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

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).



15 SEP 2004

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George N. Stevens
ANTONELLI, TERRY, STOUT & KRAUS
1300 N. 17th Street, Suite 1800
Arlington, Virginia 22209

In re Application of	:	
WEISS, Lawrence D., et al.	:	
U.S. Application No.: 09/807,443	:	DECISION
Filing Date: 21 August 2001	:	
Attorney's Docket No.: 374.37564X00	:	
For: SYSTEM AND METHOD OF ADVISING	:	
BUYERS HOW MUCH TO PAY FOR GOODS	:	
AND SERVICES BASED ON DEMOGRAPHICS	:	
	:	

This decision is issued in response to the 21 August 2001 filing of: (1) "Petition," accompanied by a copy of the specification (including claims) and a \$130 fee; (2) "Petition To Grant Original Filing Date And Refund Of Fees," asserting that the original 25 April 2001 submission included the required specification and claims that the filing date for the application should therefore be 25 April 2001 and the \$130 petition fee should be refunded (this petition includes copies of the return postcards confirming applicants' 25 April 2001 submission); and (3) a "Letter To PCT Petitions Attorney Richard M. Ross."

BACKGROUND

The application materials originally filed by applicants on 25 April 2001 (which were submitted with two separate return postcards, two separate Fee Transmittal forms, and which referenced two separate attorney docket numbers) were treated upon filing as two separate applications. Application number 09/807,444 (attorney docket number 374.37564A00, hereinafter "A00"), was created as a national stage of PCT/US99/22904 filed under 35 U.S.C. 371. The petition to revive the application under 37 CFR 1.137(b) included with the application materials, and one of the Fee Transmittal forms (both of which contained the A00 docket number) were placed in the 09/807,444 application file, as was the copy of the international application and the related international stage papers. The \$620 petition fee and the \$65 surcharge for filing the declaration later than thirty months after the priority date, both of which were listed on the A00 Fee Transmittal form, were allocated to such application as well.

The Utility Patent Application Transmittal (Form PTO/SB/05), the second Fee Transmittal form, the formal drawings, and the preliminary amendment requesting entry of the formal drawings (all of which contained attorney docket number 374.37564X00, hereinafter "X00") were placed in present application number 09/807,443. Based on the Form PTO/SB/05, application number 09/807,443, which was created as a new utility application filed under 35 U.S.C. 111(a). The \$355 filing fee, and the \$893 in excess claims, all of which were listed on the

X00 Fee Transmittal form, were allocated to application number 09/807,443.

On 25 June 2001, the USPTO mailed herein a "Notification Of Incomplete Nonprovisional Application" indicating that the filed nonprovisional application was incomplete because it did not include a specification and claims.

On 21 August 2001, applicants filed in present application 09/807,443: (1) "Petition," accompanied by a copy of the specification (including claims) and a \$130 fee; (2) "Petition To Grant Original Filing Date And Refund Of Fees," asserting that the original 25 April 2001 submission included the required specification and claims that the filing date for the application should therefore be 25 April 2001 and the \$130 petition fee should be refunded (this petition includes copies of the return postcards confirming applicants' 25 April 2001 submission); and (3) a "Letter To PCT Petitions Attorney Richard M. Ross" considered herein.¹

On 24 October 2001, applicants filed in the present application a "Second Preliminary Amendment."

DISCUSSION

In the submission considered herein, applicants argue that the materials filed on 25 April 2001 should have been treated as a single application. However, based on applicants' submission of materials under two different attorney docket numbers, with separate Fee Transmittal forms and return postcards for each docket number, it is concluded that the USPTO acted properly in treating the 25 April 2001 submission as two separate applications: (1) a national stage filed under 35 U.S.C. 371, which included the petition to revive the application and the related international application materials (09/807,444), and (2) a utility application filed under 35 U.S.C. 111(a) (09/807,443).

The "Petition" filed 21 August 2001 includes a specification and claims and a \$130 petition fee, as required by the "Notification Of Incomplete Nonprovisional Application." Based on this submission, applicant is entitled to a filing date herein of 21 August 2001, with the specification and claims of record being those submitted with the petition on 21 August 2001.

The "Petition To Grant Original Filing Date And Refund Of Fees" filed 21 August 2001 asserts that applicants 25 April 2001 submission included 44 pages of specification (such specification including a total of 97 claims). As support, applicants have attached copies of the two return postcards included with the original 25 April 2001 submission. A review of these return postcards reveals that the postcard bearing the X00 docket number (stamped by the

¹ Also on 21 August 2001, applicants filed, in related application 09/807,444: (1) a "Renewed Petition Under 37 CFR 1.137(b);" (2) a "Petition To Refund Excess Fees Paid," and (3) a "Letter To PCT Petitions Attorney Richard M. Ross." These materials are treated separately in a decision issued concurrently herewith in application 09/807,444.

USPTO with the 09/807,443 application number) itemizes the following items: (1) \$1,248 in fees; (2) "New Application;" (3) a preliminary amendment; (4) 363 sheets of formal drawings; (5) Utility Application Transmittal; (6) Fee Transmittal; and (7) credit card payment form. This return postcard also bears what appears to be a USPTO notation stating that the "PTO did not receive 44 pages of specification." The 44 page specification is itemized on the second return postcard, which bears the A00 docket number and was assigned serial number 09/807,444 by the USPTO. In sum, these return postcards confirm that the copy of the 44 page specification was included with the materials filed under the A00 docket number, the materials that were assigned to application number 09/807,444. The materials filed under the X00 docket number, which were used to create the present application, did not include the specification. Accordingly, the mailing of the "Notification Of Incomplete Nonprovisional Application" herein was proper, and applicants are not entitled to the requested 25 April 2001 filing date. The proper filing date herein is therefore 21 August 2001, the date on which the present petitions, accompanied by a copy of the specification and claims, were filed in the present application. Because applicants are not entitled to the earlier filing date, the requested refund of the petition fee would not be appropriate.

It is noted that the declarations filed herein execute a different international application (PCT/US99/22909) and therefore are unacceptable.

CONCLUSION

Applicants' "Petition" submitted in response to the "Notification Of Incomplete Nonprovisional Application" mailed 25 June 2001 is **GRANTED**. The present application is accorded a filing date of 21 August 2001, the date that the petition and the accompanying specification (including claims) were submitted.

The "Petition To Grant Original Filing Date And Refund Of Fees" is **DISMISSED** without prejudice for the reasons discussed above.

This application is being forwarded to OIPE for further processing in accordance with this decision.



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459



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

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NOV 24 2004

In re Application of :
Thomas Buchel :
Application No. 09/807,457 :
Filed: June 11, 2001 :
Attorney Docket No. P/167-133 :

OFFICE OF PETITIONS

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**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

SEP 13 2001



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24

James E. Beyer
KILLWORTH GOTTMAN HAGAN & SCHAEFF, L.L.P.
One South Main Street, Suite 500
Dayton, OH 45402-2023

In re Application of	:	
BORISENKO, Dmitry <i>et al</i>	:	
Application No.: 09/807,485	:	
PCT No.: PCT/CA99/00928	:	
Int. Filing Date: 13 October 1999	:	DECISION
Priority Date: 13 October 1998	:	
Attorney Docket No.: GOW 0082 PA	:	
For: HIGH CAPACITANCE ENERGY	:	
STORING DEVICE	:	

This decision is in response to the declaration filed on 16 July 2001 which is treated as a submission under 37 CFR 1.42.

BACKGROUND

On 12 April 2001, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an unsigned declaration.

On 14 May 2001, a Notification of Missing Requirements and Notification of a Defective Oath or Declaration was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. The declaration submitted on 18 February 2000 was not in compliance with 37 CFR 1.497(a) because it was not signed. A two-month time limit was set for response.

On 16 July 2001, applicants filed a declaration signed by co-inventor Dmitry Borisenko, a document in Russian titled "Declaration by an Administrator or Executor Attached to Patent Application" and accompanying English translation, a "Small Entity Claim and Request for Refund" and payment of \$65.00 for surcharge fees.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Here, applicants included a declaration signed by Dmitry Borisenko as a co-inventor and listing the other co-inventor, Nikolay Borisenko as deceased. The

residence and citizenship of both Dmitry Borisenko and Nikolay Borisenko are listed on the declaration pursuant to 37 CFR 1.497(a).

Applicants also included a document in Russian with accompanying English translation titled "Declaration by an Administrator or Executor Attached to Patent Application" listing Dmitry Borisenko as the legal representative of the deceased co-inventor and signed by Mr. Borisenko. This document complies with the requirements of 37 CFR 1.497(b)(2) and is notarized with an attached apostille.

However, the document does not comply with 37 CFR 1.497(a)(4) which requires that the oath or declaration states that "the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought." In the "Declaration by an Administrator or Executor Attached to Patent Application" signed on behalf of Nikolay Borisenko by Dmitry Borisenko, the declaration states "that I verily believe the said Nikolay Borisenko to be the **second inventor** of the improvement in HIGH CAPACITANCE STORAGE DEVICE described and claimed in the foregoing specification." (Emphasis added).

Request for Refund

Applicants submitted a claim for small entity status and requested a refund in the amount of \$495.00 pursuant to 37 CFR 1.28(a) which states, in part:

A refund pursuant to § 1.26 of this part, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136.

In this case, the small entity statement and request for refund have been filed within three months from the payment of the filing fees. The basic national fee and a surcharge fee were paid on 12 April 2001, while the statement claiming small entity status was mailed on 11 July 2001.

CONCLUSION

For the reasons discussed above, applicants request for a refund pursuant to 37 CFR 1.28(a) is **GRANTED**. However, applicants' request Under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration 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 Request Under 37 CFR 1.42".

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Boris Milef
PCT Legal Examiner
PCT Legal Office



James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



FEB 15 2002

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Handwritten initials

James E. Beyer
KILLWORTH GOTTMAN HAGAN & SCHAEFF, L.L.P.
One South Main Street, Suite 500
Dayton, OH 45402-2023

In re Application of :
BORISENKO, Dmitry *et al* :
Application No.: 09/807,485 :
PCT No.: PCT/CA99/00928 :
Int. Filing Date: 13 October 1999 :
Priority Date: 13 October 1998 :
Attorney Docket No.: GOW 0082 PA :
For: HIGH CAPACITANCE ENERGY :
STORING DEVICE :

DECISION

This decision is in response to applicants' "Request for Reconsideration" ("Resp.") filed on 31 December 2000.

BACKGROUND

On 13 September 2001, a decision dismissing applicants request under 37 CFR 1.42 was mailed because the declaration signed by the legal administrator did not comply with 37 CFR 1.497(a)(4).

On 31 December 2001, applicants filed the instant response.

On 09 January 2002, applicants resubmitted the instant response via facsimile.

DISCUSSION

Applicants submitted two declarations on 16 July 2001.

One declaration included the residence and citizenship of both co-inventors and was signed by co-inventor Dmitry Borisenko on 22 June 2001. The second co-inventor, Nikolay Borisenko, was listed as deceased.

Applicants included another declaration signed by Dmitry Borisenko on 27 June 2001 as "administrator of the estate of, or executor" of the deceased co-inventor, Nikolay Borisenko. In this document, Dmitry Borisenko declared "that I verily believe the said Nikolay Borisenko to be the second inventor of the improvement in HIGH CAPACITANCE STORAGE DEVICE described and claimed in the foregoing specification."

However, the declarations were not accepted pursuant to 37 CFR 1.497(a)(4) which requires that the oath or declaration declare that "the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought."

In the instant request, applicants claim that the second declaration signed by Dmitry Borisenko as executor was "simply a mechanism for explaining why Nikolay Borisenko could not sign the original declaration," not a declaration. Resp. ¶ 5.

Applicants explain that "in the declaration, Nikolay Borisenko is listed as the second inventor for signature purposes. Thus, Nikolay Borisenko is identified as the second inventor for the purposes of the document accompanying the declaration. Identifying Nikolay Borisenko as the second inventor is not to be interpreted as meaning that another person invented the present invention before Nikolay Borisenko and his co-inventor Dmitry Borisenko. It is only for the purposes of coordinating the document with the declaration that was submitted and found in compliance with 37 CFR 1.497. The declaration and its accompanying document are meant to be read together. When read together, it is apparent that Nikolay Borisenko and Dmitry Borisenko are the original, first and joint inventors." *Id.* ¶ 6.

This is not persuasive.

The declaration executed on 22 June 2001 listing both co-inventors was not in compliance with 37 CFR 1.497(b). Dmitry Borisenko signed this declaration as co-inventor, not as a co-inventor and legal representative of Nikolay Borisenko. There is no indication in this declaration that Dmitry Borisenko was signing as a representative for Nikolay Borisenko, as required under 37 CFR 1.497(b). Moreover, the fact that Dmitry Borisenko subsequently executed the "Declaration by an Administrator . . ." further supports that the previously signed declaration was executed by Dmitry only in his capacity as co-inventor. Thus, an oath or declaration in compliance with 37 CFR 1.497(a) and (b), by the legal representative of the deceased inventor was still required.

The document titled "Declaration by an Administrator or Executor Attached to the Patent Application" was signed by Dmitry Borisenko as the executor of Nikolay Borisenko on 27 June 2001. The legal representative is required to state those facts that the inventor was required to state. 37 CFR 1.497(b). The facts which Dmitry Borisenko, in his capacity as legal representative, did not state are: 1) identification of the inventors (37 CFR 1.497(a)(3)), and 2) that Dmitry and Nikolay are the "original and first inventors of the subject matter for which a patent is sought. (37 CFR 1.497(a)(4)). The declaration executed by Dmitry in his capacity as legal representative states that Nikolay Borisenko is the "second" inventor, not the "first" as required under the rule and under 35 U.S.C. 115. Moreover, such a statement contradicts the previously executed declaration by Dmitry.

CONCLUSION

For the reasons discussed above, applicants request under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a proper response, *i.e.*, an oath or declaration in compliance with 37 CFR 1.497(a) and (b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42". Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely respond will result in the abandonment of the application.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Boris Milef
PCT Legal Examiner
PCT Legal Office



James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



02 AUG 2002

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KILLWORTH GOTTMAN HAGAN & SCHAEFF, L.L.P.
One South Main Street, Suite 500
Dayton, OH 45402-2023

In re Application of :
BORISENKO, Dmitry *et al* :
Application No.: 09/807,485 :
PCT No.: PCT/CA99/00928 :
Int. Filing Date: 13 October 1999 :
Priority Date: 13 October 1998 :
Attorney Docket No.: GOW 0082 PA :
For: HIGH CAPACITANCE ENERGY :
STORING DEVICE :

DECISION

This decision is in response to applicants' "Renewed Request Under 37 CFR §1.42" filed on 17 June 2002.

BACKGROUND

On 15 February 2002, a decision dismissing applicants renewed request under 37 CFR 1.42 was mailed because applicants failed to comply with the requirements of 37 CFR 1.497(a) and (b).

On 17 June 2002, applicants filed the instant renewed request which was accompanied by, *inter alia*, another signed declaration and a document titled "Declaration by an Administrator or Executor Attached to the Patent Application."

DISCUSSION

In the instant renewed request, applicants have furnished a declaration executed by Dmitry Borisenko as co-inventor and listing his address, residence and citizenship and the address, residence and citizenship of the deceased co-inventor, Nikolay Borisenko.

Applicants also provided a supplemental declaration in the Russian language with an accompanying English translation titled "Declaration by an Administrator or Executor Attached to the Patent Application" signed by Dmitry Borisenko as the executor of Nikolay Borisenko. Mr. Borisenko, in his capacity as legal representative in the supplemental declaration, stated that Nikolay Borisenko is the "original, first, and joint inventor" of the subject matter for which a patent is sought. The citizenship, residence and mailing address of the legal representative are listed on the supplemental declaration.

Accordingly, the declaration now complies with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 13 October 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **17 June 2002**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.



Richard Cole
Richard Cole
PCT Legal Examiner
PCT Legal Office



James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP
SUITE 6300
701 FIFTH AVENUE
SEATTLE WA 98104-7092

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OCT 30 2008

OFFICE OF PETITIONS

In re Patent No. 7,007,053 :
Application No. 09/807,500 :
Filed: June 11, 2001 : **ON PETITION**
Issued: February 28, 2006 :
Attorney Docket No. 851663.422USPC :

This is a decision on the petition filed June 25, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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



DAC
EPW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,007,053 B1
 Issue Date : February 28, 2006
 Inventors : Rakesh Malik et al.
 Application No. : 09/807,500
 Filed : June 11, 2001
 Title : AREA EFFICIENT REALIZATION OF COEFFICIENT ARCHITECTURE FOR BIT-SERIAL FIR, IIR FILTERS AND COMBINATIONAL/SEQUENTIAL LOGIC STRUCTURE WITH ZERO LATENCY CLOCK OUTPUT

Docket No. : 851663.422USPC

Date : June 21, 2007

Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1415

10/30/2008 GARIAS 00000012 7007053

01 FC:1808

130.00 OP

PETITION FOR SUSPENSION OF RULE

Sir:

Assignees respectfully request the requirements of 37 CFR 3.81 be waived to permit the correct names of the assignees to be provided after issuance of the patent. The failure to indicate the correct assignees at the time of paying the issue fee was inadvertent. The correct names of the assignees, holding an undivided interest, are STMicroelectronics Asia Pacific (PTE) Ltd. and STMicroelectronics Limited.

Enclosed is the required petition fee under 37 CFR 1.17(h) and copies of the applicable Notice of Recordation of Assignment Document. The chain of title is as follows: The inventors Rakesh Malik and Puneet Goel assigned their interest to STMicroelectronics Asia Pacific (PTE) Ltd. and STMicroelectronics Limited; recorded January 9, 2002, reel 012458, frame 0851.

06/25/2007 RPERAD01 00000011 7007053

01 FC:1464

130.00 OP

Adjustment date: 10/30/2008 GARIAS
06/25/2007 RPERAD01 00000011 7007053

01 FC:1464

-130.00 OP

Assignee has also enclosed a Certificate of Correction and a check for the applicable fee under 37 CFR 1.20(a).

If any additional fee is due for the Petition for Suspension of Rule, or the Request for Certificate of Correction, the Director is hereby authorized to charge any such fee or credit any overpayment to Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC



Robert Iannucci
Registration No. 33,514

Enclosures:

Notice of Recordation of Assignment Document
Request for Certificate of Correction
Certificate of Correction
Check for applicable fees (\$230)

701 Fifth Avenue Suite 5400
Seattle, Washington 98104-7092
Tel: (206) 622-4900
Fax: (206) 682-6031

975393_1.DOC



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In re Patent No. 6524218 :
Issue Date: February 25, 2003 :
Application No. 09807532 :DECISION GRANTING PETITION
Filed: July 24, 2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. GOT 134 :

This is a decision on the electronic petition, filed November 17, 2008, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17, 2008. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,524,218	2003-02-25	09/807,532	2001-07-24	GOT 134NP

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 |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/Robert H. Berdo, Jr./	Date (YYYY-MM-DD)	2008-11-17
Name	Robert H. Berdo, Jr.	Registration Number	38075

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.



27 APR 2004

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Jean M. Lockyer
TOWNSEND and TOWNSEND and CREW LLP
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San Francisco, California 94111-3834

In re Application of	:	
RYBAK, Susanna ET AL.	:	
Application No.: 09/807,556	:	
PCT Application No.: PCT/US99/25737	:	DECISION ON
International Filing Date: 01 November 1999:	:	
Priority Date: 02 November 1998 .	:	PETITION UNDER
Attorney Docket No.: 015280-371100US	:	
For: SELECTIVE TOXICITY OF	:	37 CFR 1.137(b)
AMINO-TERMINAL MODIFIED	:	
RNASE A SUPERFAMILY	:	
POLYPEPTIDES	:	

Applicants have filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" in the United States Patent and Trademark Office on 26 March 2004. The petition is DISMISSED as moot.

BACKGROUND

On 01 November 1999, applicants filed international application number PCT/US99/25737, claiming priority to an earlier United States provisional application, filed on 02 November 1998. A demand was timely filed electing the United States of America on 05 April 2000.

On 13 April 2001, applicants timely filed national stage papers in this application, including, *inter alia*, the basic national fee.

Upon issuance of a Notification of Missing Requirements, mailed on 08 May 2001, requiring provision of a signed inventor oath or declaration, applicants provided an acceptable signed oath or declaration on 30 July 2001. Applicants were mailed a Notification of Acceptance FORM PCT/DO/EO/903 on 15 August 2001.

On 23 October 2003, applicants were mailed a Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922, for failure to provide a Sequence Listing, CRF Sequence Listing, and accompanying statement of identical disclosure and no new matter. Applicants were given a two-month extendible time period of response.

On 23 October 2003, applicants were also mailed a Withdrawal of Previously Sent Notice that referenced a Notice of Acceptance allegedly mailed on 08 May 2001. The mailing date of the Notice of Acceptance, that should have been referenced, was 15 August 2001.

On 20 February 2004, applicants were mailed a Notification of Abandonment FORM PCT/DO/EO/909 for failure to respond to the Notification mailed on 23 October 2003.

On 26 March 2004, applicants filed this instant petition along with an amendment to enter a paper form Sequence Listing, CRF Sequence Listing, and statement of identical disclosure and no new matter. On 05 April 2004, applicants' CRF Sequence Listing was deemed technically acceptable.

DISCUSSION

The Notification of Abandonment, mailed on 20 February 2004, was issued in error. The Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922, mailed on 23 October 2003, provided applicants a two-month extendible time period of response.

Applicants' 26 March 2004 submission provided the materials requested in the Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures FORM PCT/DO/EO/922. Applicants' transmittal letter for these materials authorizes charging applicants' deposit account for additional fees. For applicants' submission to be timely, applicants are required to petition for a three-month extension at \$950, which extension is hereby granted. Accordingly, the instant application was not abandoned.

CONCLUSION

The petition under 37 CFR 1.137(b) is DISMISSED as moot. The Notification of Abandonment FORM PCT/DO/EO/909, mailed on 20 February 2004, is hereby vacated.

This application has an international filing date of 01 November 1999 under 35 USC 363 and a date of 30 July 2001 under 35 USC 371(c)(1), (c)(2), and (c)(4).

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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APR - 8 2005

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In re Application of :
ANKER et al : Decision on Petition
Serial No.: 09/807,558 :
Filed : 17 July 2001 :
Attorney Docket No.: ICI I02 :

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 6 July 2004. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 USC 371 on 17 July 2001.

On 6 January 2004, the Office mailed a 16-way restriction requirement, of claims 1-31, 35-41, 46 and 47 as follows.

Groups I-X are drawn to methods of administering to a patient one of ten compounds selected from the group consisting of aldosterone, chymase inhibitor, cathepsin inhibitor, receptor blocker, ganglion blocking agent, opiate, scopolamine, xanthine oxidase inhibitor, erythropoietin, and receptor agonist.

Groups XI-XV are drawn to a method of administering digitalis alkaloid, growth hormone, insulin like growth factor, endothelin antagonist or TNF antagonist.

Group XVI is drawn directed to a method of electrically stimulating a patient's muscles.

On 5 February 2004, applicants elected Group I, claims 1-3, 19, 29-31, 35-36, 38-39 (in part) and claim 4, drawn to a method of administering to a patient a compound that inhibits the effect of aldosterone with traverse.

On 3 May 2004, Applicant's election with traverse of the invention of Group 1, (claims 1-3, 19, 29- 31, 35-36, 38-39 (in part), and claim 4), filed on 05 February 2004 was acknowledged.

Claims 1-31, 35-41, 46-47 were pending. Claims 32-34 and 42-45 were cancelled. Claims 1-2, 19, 29-31, 35-36, 38-39, will be searched and examined in so far as they pertain to a method of administering to a patient a compound that inhibits the effect of aldosterone, claims 3 and 4 would be searched and examined in full. Claims 5-18, 20-28, 37, 40-41 and 46-47 were withdrawn from consideration by the Examiner as drawn to non-elected inventions.

Applicants traversal was responded to and the requirement maintained and made FINAL.

Claims 2, 36, 39 and 41 were objected to for reciting non-elected inventions.

Claims 1, 2, 3, 4, 19, 29-31, 35-36, 38-39 and 41 were rejected under 35 U.S.C. 112, first paragraph, for scope of enablement.

Claims 35-36, and 38-39 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention.

Claims 1, 2, 3, 4, 19, 35, 36, 38, 39 and 41 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-4, 19, 29-31 and 41 were rejected under 35 U.S.C 102(b) as being anticipated by RALES investigators (October 1996).

Applicants filed responses on 9 November 2004 (with a certificate of mailing date of 4 November 2004) and 10 February 2005.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition, Applicants requests reconsideration of the lack of unity determination.

Claim 1, a generic linking claim, is reproduced below.

1. A method of treating weight loss due to underlying disease in a patient the method comprising administering to the patient an effective amount of an agent which reduces sympathetic nervous system activity and/or improves cardiovascular reflex status.

Applicants elected Group I, claims 1-3, 19, 29-31, 35-36, 38-39 (in part) and claim 4, drawn to a method of administering to a patient a compound that inhibits the effect of aldosterone with traverse.

The petition sets forth the following concerns:

(A) The claims form a single general inventive concept defined by Claim 1.

- (B) The Examiner improperly limited the scope of the generic claims.
- (C) The claims should have been divided into at most 4 groups
- (D) The alternatives are of similar nature under Markush Practice
- (E) Division of a single claim into multiple inventions is improper.

Concerning (C), applicants propose the following 4 groups:

Group I, claims 1-27, 29-31, 35 and 36, drawn to a method of treating weight loss by administration of an effective amount of an agent which reduces sympathetic nervous system activity.

Group II, claims 28, 37, 46 and 47, drawn to a method of treating weight loss by electrically stimulating the patient's muscles.

Group III, claims 38-40, drawn to a method of enhancing exercise performance.

Group IV, claim 41, drawn to a method of treating weight loss associated with a cardiovascular disorder.

Concerning (A), (C) and (D), the arguments that the alternatives are of similar nature and have unity of invention is not persuasive. The products listed in claim 2, for example do not share a common structure essential for the common utility. Moreover, the products used in the methods do not belong to a single art-recognized class of compounds. For example, erythropoietin is recognized as a blood cell growth factor while spironolactone is recognized as an agent that inhibits the effects of aldosterone.

Moreover, the technical feature shared among the inventions, a method of administering an agent that decreases sympathetic nervous activity and/or improves cardiovascular reflex status, does not make a contribution over the prior art, as evidenced by Mueller et al. The arguments that Mueller et al does not teach the use of propranolol for the treatment of cachexia is not persuasive as they are not commensurate in scope with the claimed invention, which contains the sole active step of administering an agent to reduce sympathetic nervous system activity and/or improves cardiovascular reflex status. Additional evidence that the technical feature linking the inventions does not make a contribution over the prior art is provided by the art rejections of Claims 1-4, 19, 29-31 and 41 under 35 U.S.C 102(b) as being anticipated by RALES investigators (October 1996) in the Office action mailed 3 May 2004. For these reasons, the lack of unity determination between the Groups is appropriate.

Concerning (E), Applicants argue that division of a single claim into multiple inventions is improper. This is incorrect.

37 CFR 1.475(E) provides for division within a single claim:

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Concerning (B), Applicants are correct that the restriction requirement failed to identify and properly treat linking claims. The examiner should have included form paragraph 8.12 in the Office actions which would have informed applicants:

Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Additionally, the examiner erred in limiting the examination of the generic linking claims to the elected invention, a method of administering a compound that inhibits the effect of aldosterone. Applicants are correct that they are entitled to examination of any generic linking claims along with the elected invention.

The objection to claims 2, 36, 39 and 41 as set forth at pp. 5-6 of the Office Action (5/3/2004) for containing non-elected inventions is also improper in view of the generic linking claims. MPEP 809.04 states that

Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the case claims to the nonelected invention or inventions.

If a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the non-elected inventions that are linked to the elected invention by such allowed linking claim.

Moreover, the statement made in paragraph 1b, page 2 of the Office action mailed 3 May 2004 is improper. The office cannot limit the search of generic linking claims 1, 29-31, 35 and 38 to the elected method.

DECISION

The petition under 37 CFR 1.144 filed on 04 June 2004 is **GRANTED IN PART** as follows.

The lack of unity determination stands with respect to the individual types of agents as they lack unity of invention.

The petition is persuasive concerning identification and treatment of linking claims. Should any of the generic linking claims 1, 29-31, 35, 38 become allowable, claims which depend upon and include all the limitations of the allowable claims will be considered for rejoinder. Should the rejoined claims be drawn to different inventions, the restriction requirement between the elected invention and the rejoined invention(s) will be withdrawn.

The application will be forwarded to the examiner for consideration of the responses filed 9 November 2004 and 10 February 2005 and preparation of an Office action consistent with this decision.

There is no fee required for the filing of this petition. The petition fee paid of \$130.00 has been credited to Applicants' Deposit Account Number 50-3129.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.



Jasemine Chambers
Director, Technology Center 1600



FEB 20 2007

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400 COLONY SQUARE, SUITE 1200
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In re Application of
Anker et al
Serial No.:09/807,558
Filed: July 17, 2001
Attorney Docket No.: ICI 102

:
:
: PETITION DECISION
:
:

This is in response to the petition under 37 CFR § 1.181, filed October 30, 2006, requesting review of the examiner’s finding that applicants’ amendment to the specification to delete Examples 6 through 9 constitutes new matter by omission. The delay in responding to this petition is regretted.

BACKGROUND

This case has a long prosecution history. Applicants have made repeated attempts to amend the specification by deleting Examples 6-9 in the specification. Most recently, applicants submitted a Request for Continued Examination on April 14, 2006 together with an amendment and response amending the specification as previously proposed and amending the claims.

On June 29, 2006, the examiner mailed an Office action entering the amendment filed on April 14, 2006. In this Office action, however, the examiner continued to object to the specification under 35 U.S.C. § 132 on the basis that the deletion of Examples 6 – 9 constitutes new matter by omission.

Applicants responded thereto by filing this petition under 37 CFR § 1.181, on October 30, 2006, requesting review of the new matter objection.

DISCUSSION

Applicants argue that the examiner objected to the deletion of Examples 6 to 9 as new matter because the “specification is not the same scope [as originally filed]” in the Office action of June 29, 2006. Applicants point out the examiner reasoned that the omission substantially changed

the specification from the originally filed specification, and therefore is new matter by omission. Applicants also point out that the examiner has not rejected a single claim based on a lack of written description in the specification due to the deletion of Examples 6 to 9 as one would expect if there were new matter by omission. Applicants further point out that the deletion of Examples 6-9 does not broaden the disclosure, and that the examiner does not explain how the deletion could broaden the specification.

Applicants' points are well taken and agreed with. Therefore, the objection to the specification should be withdrawn.

DECISION

The petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Ms. Marianne Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number 571-273-8300.



George Elliott
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 31 2006

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In re Application of :
Jean Rommelaere et al :
Serial No.: 09/807,579 : PETITION DECISION
Filed: November 28, 2001 :
Attorney Docket No.: 06528.0127.NPUS00 :

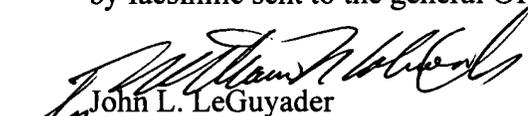
This is in response to the petition under 37 CFR 1.181, filed August 19, 2004, requesting withdrawal of abandonment based on failure to receive an Office action. The delay in acting on this petition is regretted and was likely caused by Office migration to an Imaged File Wrapper and failure to notify the deciding official of the existence of the petition.

A review of the file history shows that the examiner mailed an Office action to applicants on December 2, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicants on July 28, 2004. Applicants filed this petition on August 19, 2004, requesting revival of the application based on failure to receive the Office action and providing the required statements and evidence from docket reports. In view of the evidence presented that the Office action was not received the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

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


John L. LeGuyader
Director, Technology Center 1600



20 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick J. Kelly
Synnestvedt & Lechner
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

In re Application of :
GAYLE, Richard B., III, et al. :
Application No.: 09/807,660 :
PCT No.: PCT/US99/23641 :
Int. Filing Date: 13 October 1999 :
Priority Date: 16 October 1998 :
Attorney Docket No.: P23,495 USA :
For: METHODS OF INHIBITING :
PLATELET ACTIVATION AND :
RECRUITMENT :

DECISION ON
PETITION UNDER
37 CFR 1.181

This is a decision on applicants' "Resubmission of Reply to Notification of Defective Response Dated April 22, 2003," filed in the United States Patent and Trademark Office (USPTO) on 19 November 2003.

BACKGROUND

On 13 October 1999, applicants filed international application PCT/US99/23641, which claimed a priority date of 16 October 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 May 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 April 2001.

On 16 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 01 June 2001, USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant had not furnished the required sequence listing.

On 06 September 2001, applicants furnished a sequence listing and a declaration.

On 11 January 2002, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application's 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements were met on 06 September 2001.

On 31 December 2002, the Office mailed Notification of Defective Response, indicating that the sequence listing did not comply with 37 CFR 1.821-1.825.

On 27 January 2003, applicants submitted "Reply to Notification of Defective Response," accompanied by the necessary statement, a CRF and a written copy of the sequence listing.

On 22 April 2003, the Office mailed Notification of Defective Response (From PCT/DO/EO/916) indicating that the CRF was defective as the CD was melted.

On 07 November 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909), indicating the application went abandoned for failure to respond to the 22 April 2003 Notification of Defective Response.

On 19 November 2003, applicant submitted "Resubmission of Reply to Notification of Defective Response," accompanied by a new CRF and the necessary statement.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

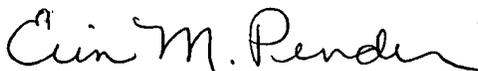
Applicant has submitted a copy of a postcard receipt identifying the instant application by title, inventor and serial number, stamped 28 May 2003 and listing a diskette. This is adequate evidence that the listed item was received by the Office on 28 May 2003. Applicant indicates that the enclosed are true copies of the 28 May 2003 submission and the statement is signed by someone registered to practice before the Office.

The sequence listing has been entered.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including issuance of a new Notification of Acceptance indicating that the application's 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements were met on 06 September 2001.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459



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Commissioner for Patents
United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

Paper No. 28
COPY MAILED

JUN 02 2004

In re Application of :
Motokazu Watanabe et al :
Application No. 09/807,692 :
Filed: April 17, 2001 :
Attorney Docket No. 43888-098 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed May 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 April 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1753 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).



MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Okada et al	:	
Application No. 09/807,696	:	ON PETITION
Filed: April 17, 2001	:	
Attorney Docket No. 50352-019	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 1764 will consider the request for continued examination under 37 CFR 1.114.


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

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



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

Paper No. _____

Date : February 18, 2005
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

Applicant(s) : Tsuyoshi Okada et al
Application No. : 09/807,696
Filed : April 17, 2001

The above-identified application has been assigned Patent No. 6,858,131 and an issue date of February 22, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

"All reference to Patent No. 6,858,131 to Tsuyoshi Okada et al of Japan for GAS TURBINE FUEL OIL AND PRODUCTION METHOD THEREOF AND POWER GENERATION METHOD appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

Docket No.: 50352-019

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Tsuyoshi OKADA, et al. : Customer Number: 20277
: Confirmation Number: 2515 :

Application No.: 09/807,696 : Group Art Unit: 1764
: Allowed: November 5, 2004

Filed: April 17, 2001 : Examiner: Griffin, Walter Dean

For: GAS TURBINE FUEL OIL AND PRODUCTION METHOD THEREOF AND POWER GENERATION METHOD

PETITION FOR WITHDRAWAL FROM ISSUE (37 CFR 1.313)

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

FAX RECEIVED

FEB 18 2005

OFFICE OF PETITIONS

Sir:

1. Applicant hereby petitions for the withdrawal of this application from issue.

2. The issue fee for this case

- a. has NOT been paid, but is due for payment on .
- b. has been paid on December 10, 2004.

This application is scheduled to

- issue on February 22, 2005.
- as patent 6,858,131.

3. The reason for the request for withdrawal from issue is:

- a. there has been a mistake on the part of the Office.
- b. there has been a violation of Section 1.56, or illegality in the application.
- c. one or more of the claims are unpatentable.

02/22/2005 SKELLEY 00000000 00000000 00000000

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Application No. 09/807,696

- d. for purposes of declaring an interference.
- e. Issuance of a foreign search report and filing of a pertinent reference.

Further details as to the reason(s) for this withdrawal request are set forth on the attached sheet(s).

4. The petition fee (37 CFR 1.17(i)) is paid as follows:

- Enclosed is a check in the sum of \$130.00.
- Charge Account 500417 the sum of \$130.00. A duplicate of this petition is attached.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Cameron K. Weiffenbach
Registration No. 44,488

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 CKW:jjj
Facsimile: 202.756.8087
Date: February 18, 2005

Please recognize our Customer No. 20277
as our correspondence address.

Certification of Facsimile Transmission

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Jacqueline Reid-Johnson
Type or print name of person sending facsimile
J. Reid-J 2/18/05
Signature Date

Application No. 09/807,696

The reason for the request to withdrawal the above-reference patent application from issue is that Applicant has received a Supplementary European Search Report dated October 12, 2004. The Search Report cites six patents that have been identified as being particularly relevant if taken alone. Five of these patents cited have not been considered by the Examiner.

Therefore, it is requested that this Petition for Withdrawal from Issue be granted and that the accompanying Request for Continued Examination (RCE) of the application filed concurrently with this Petition be approved in order that the patents can be considered by the Examiner.

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Type or print name of person signing certification

Signature Date

Jacqueline Reid-Johnson
2/18/05

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.

FACSIMILE

Date: February 18, 2004

Time Sent:

To:	Company:	Facsimile No:	Telephone No:
Francis Hicks	U.S. Patent and Trademark Office	571 272-3218	571 273-0025
From:	Cameron K. Weiffenbach	Direct Phone:	202.756.8171
E-Mail:	cweiffenbach@mwe.com		
Sent By:	Jackie Reid-Johnson	Direct Phone:	202 756-8668
Client/Matter/Tkpr:	50352-019/05169	Original to Follow by Mail:	No
		Number of Pages, Including Cover:	64

Message: URGENT

U.S. Patent Application No.09/807,696
Art Unit 1764
Applicant: Okada et al.

Certification of Facsimile Transmission
 I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.
Jackie Reid-Johnson
 Type or print name of person signing certification
[Signature] 2/18/05
 Signature Date

FAX RECEIVED

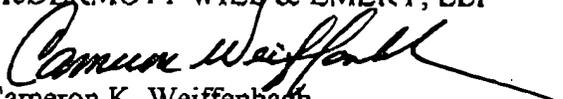
FEB 18 2005

OFFICE OF PETITIONS

Dear Ms. Hicks:

Attached is a Petition to Withdrawal of issuance of the above referenced patent application. Currently filed with the Petition is a Request for Continued Examination (RCE) and an Information Disclosure Statement. The application is scheduled to issue on February 22, 2005. It is respectfully requested that the Petition be considered as soon as possible before the issuance of the patent.

Sincerely yours,
McDERMOTT WILL & EMERY, LLP



Cameron K. Weiffenbach
Registration No. 44,488

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U.S. practice conducted through McDermott Will & Emery LLP.
600 Thirteenth Street, N.W. Washington, D.C. 20005-3096 Telephone: 202.756.8000



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Paper No.

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

MAILED

SEP 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 09/807,783	:	DECISION ON PETITION
Patent No. 6,884,422	:	PURSUANT TO
Filed: June 1, 2001	:	37 C.F.R. § 1.28(c)
Issued: April 26, 2005	:	
Attorney Docket No. CCP-100	:	
Title: FREEZE-DRIED HEPATITIS	:	
A ATTENUATED LIVE VACCINE AND	:	
ITS STABILIZER	:	

This is a notice regarding your submission of March 16, 2009, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R § 1.28(c). On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 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.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

- (a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
- (b) The small entity fee actually paid, and when;
- (c) The deficiency owed amount (for each fee erroneously paid); and

Decision on Petition pursuant to Rule 1.28(c)

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

Petitioner has identified the particular type of fee that was erroneously paid as a small entity.

It does not appear that Petitioner has identified the small entity fee that was actually paid, when the small entity fee was actually paid, the deficiency owed amount, or the total deficiency payment owed. However, Office records indicate that on October 27, 2008, \$ 490 was submitted to the Office. As such, the requirement that Petitioner must provide the Office with the amount of the small entity fee that was actually paid along with when the small entity fee was actually paid, the deficiency owed amount, and the total deficiency payment owed is waived, *sua sponte*.

Your fee deficiency submission under 37 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This patent is now listed as a large entity.

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 patent, 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 patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

A blank fee address form may be found at <http://www.uspto.gov/web/forms/sb0047.pdf>.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: CPI Packages Inc.
414 Hungerford Drive
Third Floor
Rockville, MD 20850

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/28/2010

Applicant : Tomoyuki Asano : DECISION ON REQUEST FOR
Patent Number : 7636843 : RECALCULATION of PATENT
Issue Date : 12/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/807,824 : OF WYETH AND NOTICE OF INTENT TO
Filed : 04/18/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **2047** 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.

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)
6619889	2003-09-16	09807852	2001-06-25	7102CL-1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2007-12-07
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6619889 :
Issue Date: September 16,2003 :
Application No. 09807852 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 25,2001 :
Attorney Docket No. 7102CL-1 :

This is a decision on the electronic petition, filed December 7,2007 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7,2007 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition
and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner
should print and retain an independent copy

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



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

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NOV 18 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Kenichi Nishiuchi et al :
Application No. 09/807,865 :
Filed: April 19, 2001 :
Attorney Docket No. 10873.704USW :

This is a decision on the petition, filed November 12, 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 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2653 will consider the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE

: 3/5/08

Paper No.:

TO SPE OF

: ART UNIT 2642

SUBJECT

: Request for Certificate of Correction for Appl. No.: 9/807924 Patent No.: 7610277B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. **113**

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

/Ahmad F. Matar/

2614

SPE

Art Unit



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E I du Pont de Nemours & Company
Legal Patents
Wilmington, DE 19898

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JUN 02 2006

In re Application of

OFFICE OF PETITIONS

Cahoon, et al.

Application No. 09/807,946

DECISION ON PETITION

Filed: April 20, 2001

Attorney Docket No. **BB1410PCT**

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on September 23, 2004, for failure to file a proper response to the non-final Office action mailed September 23, 2004. The non-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 December 24, 2004. A Notice of Abandonment was mailed on May 19, 2005.

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 1.1379(b) 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 amendment filed November 30, 2005, is noted.

The application is being directed to Technology Center 1600, GAU 1638 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:

Virginia Dress
7250 NW 52nd Street Ave
PO Box 552
Johnston, Iowa 50131-0552



17 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

In re Application of	:	
BARTON et al.	:	
Application No.: 09/807,959	:	
PCT No.: PCT/JP00/05704	:	
Int. Filing Date: 24 August 2000	:	DECISION
Priority Date: 27 August 1999	:	
Attorney Docket No.: 206094US2PCT	:	
For: SYNCHRONIZING PULSE	:	
GENERATING METHOD AND METHOD OF	:	
RECEIVING OFDM SIGNAL	:	

This decision is in response to the "PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE" submitted by applicants on 05 July 2001.

BACKGROUND

On 24 August 2000, applicants filed international application PCT/JP00/05704, which claimed a priority date of 27 August 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 27 April 2001.

On 26 April 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, a translation of the international application into English, and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

On 01 June 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 June 2001, applicants submitted an executed declaration of inventors.

On 25 June 2001, the United States Designated/Elected Office mailed a NOTIFICATION

OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) which indicated the date of receipt of all 35 U.S.C. 371 requirements as 26 April 2001.

On 05 July 2001, applicants submitted the instant "PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE" requesting that the date of receipt of all 35 U.S.C. requirements be changed to 14 June 2001.

DISCUSSION

A declaration of the inventors, as required by 35 U.S.C. 371(c)(4), was not submitted on 26 April 2001. Accordingly, the NOTIFICATION OF ACCEPTANCE OF APPLICATION mailed 25 June 2001 is hereby VACATED. The declaration of the inventors submitted 14 June 2001 is in compliance with 37 CFR 1.497(a)-(b). Accordingly, all 35 U.S.C. requirements were met on 14 June 2001.

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF ACCEPTANCE OF APPLICATION mailed 25 June 2001 is hereby VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of 14 June 2001.



Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459



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

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JAN 09 2009

OFFICE OF PETITIONS

In re Patent No. 7,227,834
Application No. 09/807,959
Filed: June 14, 2001
Issued: June 5, 2007
Attorney Docket No. 206094US2PCT

ON PETITION

This is a decision on the petition filed December 4, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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



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#1

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, DC 20231
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Mark D. Chuey
Brooks & Kushman P.C.
22nd Floor
1100 Town Center
Southfield, MI 48075-1351

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JUL 30 2002

Office of the Director
Group 3600

In re application of
John Ronald Hughes et al.
Application No. 09/808,001
Filed: March 14, 2001
For: TECHNICAL STANDARD REVIEW AND
APPROVAL

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on June 18, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
- C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
- D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above. The attorneys listed in the Request For Withdrawal As Attorney signed by Seth E. Rodack do not match those listed in the original declaration. In fact, Seth

E. Rodack is not listed in the original declaration so he is not an attorney of record and can not sign the request for withdrawal. A copy of the original declaration is attached for use in filing a supplemental request.

In summary, the request is **NOT APPROVED**.



Kenneth Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KD/dw: 7/17/02

Attachment: copy of original declaration



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#4

Mark D. Chuey
Brooks & Kushman, P.C.
22nd Floor
1000 Town Center
Southfield, MI 48075-1351

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NOV 20 2002

Office of the Director
Group 3600

In re application of
John Ronald Hughes, et al.
Application No. 09/808,001
Filed: March 14, 2001
For: TECHNICAL STANDARD REVIEW
AND APPROVAL

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on August 14, 2002 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

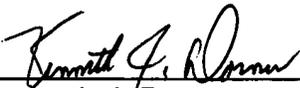
Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client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

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

09/808,001

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions (A) above.

As to condition (A), all the attorneys given power in the original Declaration/Power of Attorney are not listed as being withdrawn in the Request for Withdrawal of Attorney. If such attorneys are to maintain power of attorney, such intent should be clearly stated. Otherwise, they must be listed as being withdrawn.



Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

Rjb:11/8/02



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1000 Tower Center
Southfield, MI 48075-1351

MAILED

MAR 20 2003

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of
John Ronald Hughes et al.
Application No. 09/808,001 :
Filed: March 14, 2001 :
For: TECHNICAL STANDARD REVIEW :
AND APPROVAL :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the renewed request filed on January 13, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. There is no fee for this request.

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).

A Request for Withdrawal as Attorney was filed on August 14, 2002. The request was not approved in a decision mailed November 20, 2002 wherein it was held that the above identified application lacked condition A) in that all the attorneys given power in the original Declaration/Power of Attorney are not listed as being withdrawn in the Request for Withdrawal of Attorney.

The renewed Request to Withdraw as Attorney is not accepted in the above-identified application because the request still lacks conditions A) above.

All the attorneys given power in the original Declaration/Power of Attorney are not listed as being withdrawn in the renewed Request for Withdrawal of Attorney. If such attorneys are to maintain power of attorney, such intent should be clearly stated. Otherwise, they must be listed as being withdrawn.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpi: 3/14/03



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#10

Mark D. Chuey
Brooks & Kushman, P.C.
22nd Floor
1000 Tower Center
Southfield, MI 48075-1351

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SEP 09 2003

Office of the Director
Group 3600

In re application of
John Ronald Hughes et al.
Application No. 09/808,001
Filed: March 14, 2001
For: TECHNICAL STANDARD REVIEW
AND APPROVAL

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the renewed request filed on April 7, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. There is no fee for this request.

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).

A Request for Withdrawal as Attorney was filed on August 14, 2002. The request was not approved in a decision mailed November 20, 2002 wherein it was held that the above identified application lacked condition A) in that all the attorneys given power in the original Declaration/Power of Attorney are not listed as being withdrawn in the Request for Withdrawal of Attorney. The renewed Request filed January 13, 2003 was not accepted for the same reason.

The renewed Request to Withdraw as Attorney as filed on April 7, 2003 is not accepted in the above-identified application because the request still lacks conditions A) above.

All the attorneys given power in the original Declaration/Power of Attorney are not listed as being withdrawn in the renewed Request for Withdrawal of Attorney. If such attorneys are to maintain power of attorney, such intent should be clearly stated. Otherwise, they must be listed as being withdrawn.



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

RAR/dxn: 8/28/03



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SEP 26 2003

Office of the Director
Group 3600

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

In re application of	:	
John Hughs et al.	:	
Application No. 09/808,001	:	DECISION ON REQUEST
Filed: March 14, 2001	:	FOR WITHDRAWAL OF
For: TECHNICAL STANDARD	:	ATTORNEY
REVIEW AND APPROVAL	:	

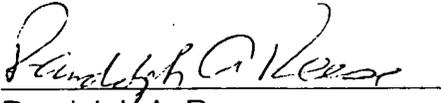
This is a decision on the request filed on April 7, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

On additional review of the request filed on April 7, 2003 and after further discussion with attorney for applicant, Mr. Mark D. Chuey and the undersigned, the petition decision mailed September 9, 2003 is hereby vacated.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
- C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
- D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney satisfies each of the conditions A) – D) above and the request is therefore **APPROVED**.



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

RAR/ekn 9/24/03

cc: Mark D. Chuey
Brooks & Kushman, P.C.
22nd Floor
1000 Tower Center
Southfield, MI 48075-1351



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United States Patent and Trademark Office
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

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APR 21 2008

In re Application of : **OFFICE OF PETITIONS**
Atsushi Kota et al :
Application No. 09/808,040 : **DECISION GRANTING PETITION**
Filed: March 15, 2001 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 61610255US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.


Karen Creasy
Petitions Examiner
Office of Petitions

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



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MARC ASCOLESE
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4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

MAILED

AUG 24 2004

Technology Center 2100

In re Application of: Rao et al.
Application No. 10/627,385
Filed: July 25, 2003
For: SYSTEM AND METHOD FOR
RESOLVING CLUSTER PARTITIONS IN
OUT-OF-BAND STORAGE
VIRTUALIZATION ENVIRONMENTS

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on April 12, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

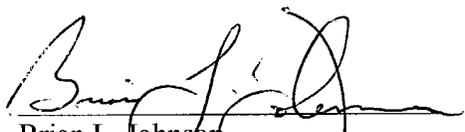
BEST AVAILABLE COPY

(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.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 8/18/04

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

Davidson Davidson & Kappel
485 Seventh Avenue, 14th Floor
New York, NY 10018

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of
Abbott et al.
Application No. 09/808,067
Filed: March 14, 2001
Attorney Docket No. 976.1001

:
:
:
:
:
:

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 of failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed April 20, 2001, which set a period for reply of (2) two 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 21, 2001.

The application file is being forwarded to the Office of Initial Patent Examination Division 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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Richard F. Giunta
WOLF, GREENFIELD &
SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

In re Application of:
Ciongoli, et al.
Application No. 09/808,102
Filed: March 13, 2001
For: PHYSICAL SWITCHED NETWORK
SECURITY

MAILED

APR 12 2006

Technology Center 2100

**DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT**

This is a decision on the Request to Withdraw from Representation filed October 4, 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
7m Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613



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Commissioner for Patents
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Yeou-Yen Chen, et al. :
Application No. 09/808,197 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 09136.0008 :

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**.

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

The file is being forwarded to the Publication Division.

Retta Williams

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

Frances Hicks

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



JGJR: 09-04

Paper No: __

SALLY J. BROWN
AUTOLIV ASP, INC.
3350 AIRPORT ROAD
OGDEN UT 84405

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SEP 23 2004

OFFICE OF PETITIONS

In re Application of
Wong, et al. : DECISION ON PETITION
Application No. 09/808,221 :
Filing Date: 14 March, 2001 :
Attorney Docket No. 14098 :

This is a decision on the renewed petition filed on 25 August, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 23 January, 2004, with reply due, absent extension of time on or before 23 April, 2004;
- on 12 May, 2004, Petitioner filed a request and fee for a one- (1-) month extension of time, and an after-final amendment, which the Examiner found in a 1 July, 2004, Advisory Action not to be proper in that it failed to place the application in condition for

allowance;¹

- the instant application went abandoned after midnight 23 May, 2004;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- with the instant petition (and fee), Petitioner submitted the reply (a request for continued examination (RCE), fee, and a submission under 37 C.F.R. §1.114), and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵

¹ The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

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

³ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁴ See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

⁵ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

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 Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

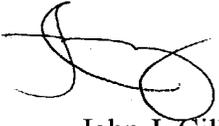
As indicated above, Petitioner now has satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 3600 for further processing.

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



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

⁶ 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.



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Paper No. 18

CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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NOV 29 2004

OFFICE OF PETITIONS

In re Application of :
Brian W. McKinnon :
Application No. 09/808,228 : ON PETITION
Filed: March 14, 2001 :
Attorney Docket No. 10557/199332 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 2, 2003. A Notice of Abandonment was mailed June 15, 2004.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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 Geoffrey K. Gavin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Gavin desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application file is being forwarded to Technology Center AU 3738, for further processing of the request for continued examination under 37 CFR 1.114 filed September 9, 2004.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: GEOFFREY K. GAVIN
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30344-4530



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DARBY & DARBY, P.C.
805 Third Avenue
New York, NY 10022

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JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Krikor Kouyoumdjian :
Application No. 09/808,291 : **ON PETITION**
Filed: March 14, 2001 :
Attorney Docket No. 00998/1H043-US1 :

This is a decision on the petition under 37 CFR 1.137(b) filed January 21, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The Office regrets the delay in responding to the instant petition.

The above application became abandoned for failure to timely respond to the final Office action mailed January 21, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Since no reply was received, the application was held abandoned and a Notice of Abandonment was mailed on October 26, 2004.

Petitioner avers that a response was timely filed on June 21, 2004. In support, petitioner provides a copy of an Amendment, the Notice of Appeal, petition for a two (2) month extension of time and a copy of the stamped postcard receipt by the USPTO, which itemizes the above listed items on June 21, 2004. It is also noted that petitioner supplied a copy of the Certificate of Express Mailing under 37 CFR 1.10 dated June 21, 2004, which identifies a petition for two (2) month extension of time, a Fee Transmittal sheet, an Amendment in response to final Office action, an Amendment Transmittal, a conditional Notice of Appeal, a check in the amount of \$210, a Certificate of Express Mailing and a return postcard.

“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.” See MPEP 503.

In view of the above, the petition is **granted** and the abandonment is hereby withdrawn. No petition fee is due for the instant petition and none has been charged.

The two-month period for filing an Appeal Brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

A review of the record fails to indicate that a change of address has been submitted. Since the address given on the petition differs from the address of record, a courtesy copy of this decision is being mailed to the address on the petition. If appropriate, a change of address should be filed in accordance with MPEP 601.03. All future correspondence regarding this application will be directed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 3721, to await the filing of an Appeal Brief.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

cc: Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257



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P.O. Box 1450
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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SEP 12 2006

OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of :
James Riordan :
Application No. 09/808,341 :
Filed: March 14, 2001 :
Attorney Docket No. CA920000012US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on August 12, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on November 13, 2005. A Notice of Abandonment was mailed on January 24, 2006.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted**.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



Paper No. 12

DAVID S. ROMNEY
IOMEGA CORPORATION
1821 WEST IOMEGA WAY
PATENT AMINISTRATOR - LEGAL DEPT.
ROY UT 84067

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MAR 13 2003

OFFICE OF PETITIONS

In re Application of :
Brooks et al. :
Application No. 09/808,351 : ON PETITION
Filed: 15 March, 2001 :
Attorney's Docket No. 58593.000006 :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 12 September, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 21 October, 2001, for failure to timely submit an oath or declaration in compliance

¹Effective 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 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 37 CFR 1.137(c).

with 37 CFR 1.63 as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 20 April, 2001, which set a two (2) month shortened period for reply. On 22 October, 2001, petitioners submitted a four (4) month time extension, but did not submit the oath or declaration. In response, on 6 December, 2001, a Notice of Incomplete Reply (Nonprovisional) was mailed. On 12 April, 2002, petitioners submitted an oath or declaration that was missing the signature of one of the inventors, Scott Hillyard. Accordingly, a Notice of Incomplete Reply (Nonprovisional) was mailed on 1 May, 2002, requiring an oath or declaration signed by joint inventor Hillyard. Notice of Abandonment was mailed on 12 February, 2003.

Petitioners have now submitted a declaration signed by joint inventor Hillyard.

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Tomas Brodsky et al. :
Application No. 09/808,377 :
Filed: March 14, 2001 :
Attorney Docket No. US010059 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed February 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 2006. A Notice of Abandonment was mailed on April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1540.00; and (3) a proper statement of unintentional delay. Accordingly the RCE is accepted as being unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2622 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.


Carl Friedman
Petitions Examiner
Office of Petitions



KAROLINE K.M. SHAIR, PH.D.
CHOATE, HALL & STEWART
53 STATE STREET
BOSTON, MA 02109

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AUG 27 2001

OFFICE OF PETITIONS

In re Application of
Danishefsky et al.
Application No. 09/808,451
Filed: March 13, 2001
Attorney Docket No. 2003080-0069 (SK-744-
US/CON2)

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed July 2, 2001, requesting that the above-identified application be accorded a filing date of March 13, 2001, rather than the presently accorded filing date of March 14, 2001.

Petitioners allege that the application was deposited in Express Mail service on March 13, 2001. In support, the petition is accompanied by a copy of Express Mail Receipt No. EL603009518US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 13, 2001.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of March 13, 2001.

Since the instant petition has been granted, no petition fee is required.

The application is being forwarded to Office of Initial Patent Examination for the issuance of a corrected filing receipt with a filing date of March 13, 2001, and will then be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries concerning this matter may be directed to Lesley Morris at (703) 306-0028.

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



CHOATE, HALL & STEWART LLP
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JAN 26 2010

OFFICE OF PETITIONS

In re Patent No. 6,656,961 :
Issue Date: December 2, 2003 :
Application No. 09/808,451 : ON PETITION
Filed: March 13, 2001 :
Attorney Docket No. 2003080-0069 (SK-744- :
US/C :

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

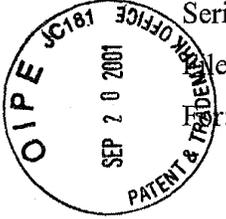
Joan Olszewski
Petitions Examiner
Office of Petitions



EXPRESS MAIL NO.: EL 501 641 636 US

PATENT IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Ovidiu Platica



Serial No.: 09/808,504

Art Unit: 1645

Filed: March 14, 2001

Examiner: To be assigned

**For: METHOD OF SIMULTANEOUS
DETECTION OF BASE CHANGES
(SDBC) IN EXPRESSED GENES**

Attorney Docket No.: 9693-004-999

**RESPONSE TO NOTICE TO FILE
MISSING PARTS OF NON-PROVISIONAL APPLICATION**

Assistant Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), dated June, 20, 2001, please consider the remarks below. Applicant includes herewith (a) a copy of the Notice; (b) an executed Declaration and Power of Attorney; (c) a Transmittal of Sequence Listing and Preliminary Amendment Under 37 C.F.R. § 1.115; (c) a Sequence Listing pursuant to 37 C.F.R. § 1.821(c) and (e) in paper and computer readable form; and (d) a Petition For Extension of Time from August 20, 2001 to and including September 20, 2001 including authorization of payment of the necessary fee.

It is estimated that a fee of **\$65.00** (small entity) is required for filing this Response. Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

Respectfully submitted,

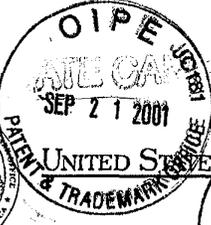
Date September 20, 2001

Thomas E. Friebel 29,258
Thomas E. Friebel (Reg. No.)

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090

Enclosures

by Margaret B. Rowland
Reg No. 40,922

  		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
09/808,504	09/16/2001	Ovidiu Platca	9693-004

20583
 PENNIE AND EDMONDS
 1155 AVENUE OF THE AMERICAS
 NEW YORK, NY 100362711

CONFIRMATION NO. 3612
 FORMALITIES LETTER



OC00000006202283

Date Mailed: 06/20/2001

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 unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 65.**
- 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

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- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*

Nguyen

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Paper No. 6

Raymond Y. Chan
1050 Oakdale Lane
Arcadia, CA 91754

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SEP 23 2003

OFFICE OF PETITIONS

In re Application of
Zhang et al.
Application No. 09/808,659
Filed: March 14, 2001
Attorney Docket No. USP1460A-JZ2

ON PETITION

This is a decision on the petition under 37 C.F.R. § 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 Corrected Application Papers (Notice) mailed May 8, 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 July 9, 2001.

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

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

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

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

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

cc: Raymond Y. Chan
108 N. Ynez Avenue, #128
Monterey Park, CA 91754



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Chad C. Soliz
2350 Moorgate Drive
Loveland, CO 80538

COPY MAILED

SEP 24 2003

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Pelouch, Wayne S. :
Application No. 09/968,974 :
Filed: October 1, 2001 :
Attorney Docket No. 14583-006 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed November 7, 2001, which set a period for reply of two months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 8, 2002.

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

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

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

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

cc: James R. Young
Faegre & Benson
1900 Fifteenth Street
Boulder, CO 80302-5414



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ret-sec

Paper No. 12

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

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
William A. McMillan et al :
Application No. 09/808,674 :
Filed: March 14, 2001 :
Attorney Docket No. 020048-003310US :

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

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

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

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

This file is being forwarded to Technology Center 1600.

Irvin Dingle
Irvin Dingle

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 12 2001

Paper No. 4

In re Application of :
James G. Watson :
Serial No. 09/808,686 : DECISION ON PETITION
Filed: March 15, 2001 : TO MAKE SPECIAL
For: PRECISION ELECTRIC MITER:
BOX :

Applicant's petition, filed May 30, 2001, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.


E. Rollins-Cross, Director
Technology Center 3700

Leonard Bloom and Associates, LLC
Intellectual Property Law Offices
401 Washington Avenue, Suite 905
Towson, MD 21204



Paper No. 16

ARMSTRONG WESTERMAN & HATTORI
502 WASHINGTON AVENUE, SUITE 220
TOWSON, MD 21204

COPY MAILED

MAY 13 2003

In re Application of :
James G. Watson :
Application No. 09/808,686 :
Filed: March 15, 2001 :
Attorney Docket No. 21046-PA :

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The application file is being forwarded to Technology Center AU 3724.

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



AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
300 WEST 6TH STREET
SUITE 2100
AUSTIN, TX 78701

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Squires :
Application No. 10/808,703 :
Filed: March 14, 2001 :
Attorney Docket No.: :
044502.0017 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2004, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned September 4, 2004 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed June 3, 2004. The Notice set a three (3) 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.

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

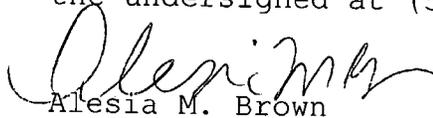
Application No. 09/808,703

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 petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application will be forwarded to the Publications Division for further processing.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: FRANK C. EYMARD
ADAMS AND REESE LLP
4500 One Shell Square
New Orleans, Louisiana 70139



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

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DEC 07 2005

OFFICE OF PETITIONS

In re	:
McMillan, et al.	:
Application No. 09/808,706	: DECISION ON APPLICATION
Filed: March 14, 2001	: FOR PATENT TERM ADJUSTMENT
Patent No. 6,911,327	:
Issued: June 28, 2005	:

This is a decision on the "APPLICATION FOR PTA UNDER 37 C.F.R. § 1.705(b)", filed August 31, 2005, requesting correction of the patent term adjustment (PTA) indicated on the Determination of Patent Term Adjustment mailed January 25, 2005.

The application for patent term adjustment is **DISMISSED**.

The Notice of Allowance and Determination of Patent Term Adjustment were mailed on January 25, 2005. Applicants paid the issue fee on March 31, 2005.

An application for patent term adjustment under 37 C.F.R. § 1.705(b) must be made prior to payment of the issue fee. As such, the instant application for patent term adjustment is untimely filed.

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

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

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

Paper No.

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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NOV 18 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael B. Jacobson :
Application No. 09/808,710 :
Filed: March 14, 2001 :
Atty Docket No. 10971442-1 :

This is a decision on the petition, filed November 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2133 for further processing of the request for continued examination under 37 CFR 1.114 filed November 12, 2004.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹The 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).



JGJR: 06-04

Paper No: 13

M. ROBERT KESTENBAUM
11011 BERMUDA DUNES NE
ALBUQUERQUE NM 87111

COPY MAILED
JUN 29 2004
OFFICE OF PETITIONS

In re Application of
Drexel, et al : DECISION ON PETITION
Application No. 09/808,714 :
Filing Date: 14 March, 2001 :
Attorney Docket No. (Z) 00022 P US :

This is a decision on the petition filed on 23 April, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 18 November, 2002, with reply due absent an extension of time on or before 18 February, 2003;
- the application went abandoned by operation of law after midnight 18 February, 2003;
- the Office mailed a Notice of Abandonment on 8 August, 2003;

- with the instant petition and fee and statement of unintentional delay, Petitioner filed an amendment as the required reply.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a

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

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

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

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

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

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

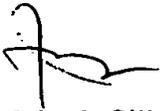
showing of unintentional delay, a proper reply, and a terminal disclaimer where appropriate. Here the terminal disclaimer is unnecessary. Petitioner has filed the petition, fee and reply, and made the statement of unintentional delay.

CONCLUSION

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

The instant application is forwarded to Technology Center 2800 for further processing in due course.

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



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



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

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

Mail Date: 04/20/2010

Applicant	: Huy Thanh Vo	: DECISION ON REQUEST FOR
Patent Number	: 7570504	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/808,750	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **632** 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

DATE : 6/26/09 Paper No.: _____

TO SPE OF : ART UNIT 2451

SUBJECT : Request for Certificate of Correction for Appl. No.: 09808857 Patent No.: 6934736 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Director's SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
 703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JOHN FOLLANSBEE
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 2100

2451



Julie L. Reed
MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland OR 97205

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FEB 27 2003

OFFICE OF PETITIONS

Applicant: Feng et al.
Appl. No.: 09/808,862
Filing Date: March 14, 2001
Title: METHOD AND APPARATUS FOR BACKGROUND ADJUSTMENT IN COLOR
REPRODUCTION DEVICES
Attorney Docket No.: 8371-120
Pub. No.: US 2002/0159080 A1
Pub. Date: October 31, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 17, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contain a mistake, which is a material mistake. Applicant states that the Office published the wrong name for the third inventor, as the Office listed "James Charles Dalrymple" as the third inventor when it should have listed his name as "John Charles Dalrymple". Applicants representative further states that the transmittal letter correctly list the third inventor as "John Charles Dalrymple".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The Declaration filed with the application lists the third inventor as "James Charles Dalrymple", the Office looks to Declaration for the names of the inventors. An inventor's name on the transmittal letter does not control over the name of an inventor on a signed Declaration. The inventorship has not been changed. Applicant should consider filing a new Declaration.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

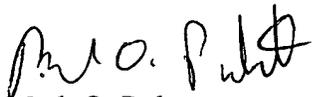
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Egon E. Berg
American Home Products Corp.
Patent Law Dept.
Five Giralda Farms
Madison, NJ 07940

COPY MAILED

JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
James H. Pickar :
Application No. 09/808,878 :
Filed: March 15, 2001 :
Attorney Docket No. AM100226 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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

The application file is being referred to Technology Center 1600.

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



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P.O. Box 1450
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MAY 5 2006

FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER, LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON; DC 20001-4413

In re Application of :
J. Pickar et al :
Serial No.: 09/808,878 : PETITION DECISION
Filed: March 15, 2001 :
Attorney Docket No.: AM100226 :

This is a decision on applicants' request for a two week Extension of Time under 37 CFR 1.136(b) filed on April 24, 2006.

The fee for the extension of time of \$200.00 will be charged to applicants' Deposit Account No. 01-1425, as directed.

The Request is **GRANTED** for one month.

Patent Owner's due date for filing a Reply Brief is extended by ONE MONTH to May 24, 2006.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

ROBERT S. KLEMZ
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219

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NOV 19 2001

In re Application of
Bruce Bryan et al.
Application No. 09/808,898
Filed: March 15, 2001
For: RENILLA RENIFORMIS
FLUORESCENT PROTEINS, NUCLEIC
ACIDS ENCODING THE FLUORESCENT
PROTEINS AND THE USE THEREOF IN
DIAGNOSTICS, HIGH THROUGHPUT
SCREENING AND NOVELTY ITEMS

: **OFFICE OF PETITIONS**
:
: **DECISION GRANTING**
: **STATUS UNDER 37 CFR 1.47(a)**

This is in response to the petition under 37 CFR 1.47(a), filed September 17, 2001.

The petition is granted.

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

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

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

This application is being forwarded to the Initial Patent Examination Unit.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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MAY 12 2006

Director's Office
Office of Patent Publication

PIETRAGALLO, BOSICK & GORDON
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219-6404

In re Application of
BRYAN, BRUCE, et al. :
Application No. 09/808,898 :
Filed: March 15, 2001 :
Attorney Docket No. LUME 48487 :

DECISION ON PETITION

This is a decision on the Petition Under 37 CFR 1.181 Requesting Withdrawal Of Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on March 27, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed May 4, 2005. The Notice of Abandonment mailed March 20, 2006, indicates that the submitted fee of \$0 is insufficient. A balance of \$1,700 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 12, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-0859. Unfortunately, on July 12, 2005, when an attempt was made by the Office of Finance to charge the fees, there was an insufficient fund in the Deposit Account.

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

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

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

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

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

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

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.



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



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ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219-6404

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of :
Bryan et al. :
Application No. 09/808,898 : ON PETITION
Filed: March 15, 2001 :
Attorney Docket Number: :
LUME 48487 :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed May 18, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed May 4, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 5, 2005. A Notice of Abandonment was mailed March 20, 2006.

With the instant petition Applicant has submitted the issue fee.

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

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

Paper No. 9

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

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JUN 11 2002

OFFICE OF PETITIONS

In re Application of	:	
Eric Victor Siegel et al	:	
Application No. 09/808,911	:	DECISION GRANTING STATUS
Filed: March 14, 2001	:	UNDER 37 CFR 1.47(A)
For: ACCESS CONTROL PROTOCOL FOR	:	
USER PROFILE MANAGEMENT	:	

This is a decision on the petition filed June 7, 2002, requesting reconsideration of a decision mailed April 8, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses 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 the Office of Initial Patent Examination for further preexamination processing.

Frances Hicks
Frances Hicks

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC VICTOR SIEGEL
560 RIVERSIDE DRIVE, #13E
NEW YORK, NY 10027

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JUN 11 2002

OFFICE OF PETITIONS

In re Application of
Siegel; Eskin; Chaffee; and Zhong
Application No. 09/808,911
Filed: March 14, 2001
For: ACCESS CONTROL PROTOCOL FOR USER PROFILE MANAGEMENT

Dear Mr. Siegel:

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:
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109



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

ALEXANDER DAY CHAFFEE
C/O PURPLE TECHNOLOGY
1836 15TH STREET
SAN FRANCISCO, CA 94103

COPY MAILED

JUN 11 2002

OFFICE OF PETITIONS

In re Application of
Siegel; Eskin; Chaffee; and Zhong
Application No. 09/808,911
Filed: March 14, 2001
For: ACCESS CONTROL PROTOCOL FOR USER PROFILE MANAGEMENT

Dear Mr. Chaffee:

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:
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

LAHIVE & COCKFIELD LLP
28 STATE STREET
BOSTON, MA 02109

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APR 08 2002

In re Application of :
Eric Victor Siegel et al :
Application No. 09/808,911 : ON PETITION
Filed: March 14, 2001 :
Attorney Docket No. KAQ-002 :

This is in response to the petition under 37 CFR 1.47(a), filed January 30, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), petitioner has not demonstrated with documented evidence that inventor Eric Victor Siegel refuses to join in the application after having been presented with the application papers (specification, claims, drawings and declaration). In this regard, Kevin J. Canning, attorney of record, states in the present petition that "a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to Eric Victor Siegel and

Alexander Day Chaffee for signature." However, in his Statement of Facts and in the letter to Mr. Siegel, it appears that only the declaration was presented to inventor Siegel. Therefore, based on the evidence submitted, it is unclear whether inventor Siegel was presented with a complete copy of the application papers for his review prior to any subsequent refusal.¹ If joint inventor Siegel was not presented with a copy of the application papers, then Mr. Siegel could not attest that he has "reviewed and understands the application papers." Did Mr. Siegel receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Siegel, then petitioner will have to mail a copy of the complete application papers to Mr. Siegel's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegraphs, etc. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

¹ The evidence is sufficient to establish that a copy of the application papers was presented to Alexander Day Chaffee, the other nonsigning inventor, in view of the reference thereto in the letter dated September 12, 2001 to Mr. Chaffee, and that Mr. Chaffee has not responded by the September 23, 2001 deadline set forth therein.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite reconsideration of the petition under 37 CFR 1.47(a), petitioner should submit the petition by facsimile transmission to the number indicated below and to the attention of Wan Laymon.

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

By mail: U.S. Patent and Trademark Office
Mail Stop DAC
P.O. Box 2327
Arlington, VA 22202

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

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

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.



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



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MAY 19 2004

Director's Office
Group 3700

Paper No. 13

MIKHAIL LEVITIN
P.O. Box 102
REEDERS, PA 18352-0102

In re Application of
LEVITIN ET AL.
Application No.: 09/808,962
Filed: March 16, 2001

:
:
:
:
:
:
DECISION ON PETITION

This is a decision on petitioner's request filed February 24, 2003, requesting withdrawal of the holding of abandonment of the above-identified application because applicant timely submitted a response to the Office communication mailed on May 23, 2002. A supplement to the request was filed on August 7, 2003.

The petition is dismissed.

37 CFR 1.8 (b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Application/Control Number: 09/808,962

Art Unit: 3748

37 CFR 1.33(b) states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered 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.

Petitioner alleges that an amendment was filed on June 17, 2002, and June 25, 2002 by facsimile transmission and that an additional copy was mailed after speaking to the examiner on May 28, 2002. As evidence, petitioner has included copies of telephone bills, a PS form 3811 with USPTO stamp of June 24, 2002, and Notice of Publication Application.

Initially it is noted that the petitions were signed by only one of two inventors. As stated in 37 CFR 1.33(b), all applicants must sign amendments and other papers. While this petition is being considered, no further petitions will be considered unless signed by all applicants. A review of the copy of the amendments submitted reveals that they are unsigned and identify only one of the two inventors. Should petitioners establish that a timely response was submitted, an amendment signed by both applicants must also be submitted. The submission of such amendment will be considered to ratify all previous amendments submitted.

A review of the amendment copies submitted do not indicate that a certificate of transmission was used for the June 17, 2002 and June 25, 2002 transmissions. In addition, no certificate of mailing was found. Copies of telephone bills do not take the place of a certificate of transmission to establish a withdrawal of abandonment.

To establish that a paper not entitled to the benefit of a certificate of mailing or transmission under 37 CFR 1.8(a) without an appropriate showing under 37 CFR 1.8(b) was filed in the USPTO, applicants must have used Express Mail and complied with the provisions of 37 CFR 1.10, or have a post card receipt establishing that the paper was actually received in the USPTO. Other than in these circumstances, the rules do not provide a mechanism for establishing that such a paper was filed in the USPTO.

Petitioner's PS form 3811 with USPTO stamp of June 24, 2002 does not establish that an amendment for this application was received in the USPTO, as it does not identify this application by the application number or provide an itemized listing of papers submitted as would have been needed for a post card receipt that establishes that a paper was actually received in the USPTO.

Application/Control Number: 09/808,962

Art Unit: 3748

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No 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." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. See also MPEP 711.03(c). The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.



Richard A. Bertsch, Director
Technology Center 3700



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Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED Paper No. 15

JUL 13 2005

OFFICE OF PETITIONS

MIKHAIL LEVITIN
P.O. Box 102
REEDERS PA 18352-0102

In re Application of	:	
MIKHAIL LEVITIN And Boris Khaytin	:	
Application No. 09/808,962	:	DECISION ON PETITION
Filed: March 16, 2001	:	
Title: METHOD OF RUNNING A	:	
CONDENSER FOR LIQUIDATION OF	:	
STEAM OR VAPOR	:	

This is a decision on the petition filed July 18, 2004, under 37 C.F.R. §1.137(a)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 23, 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 June 24, 2002. A Notice of Abandonment was mailed on February 7, 2003.

A response to the non-final Office action was submitted on February 12, 2003. On February 24, 2003 a petition was filed to have the holding of abandonment withdrawn. This petition was dismissed via the mailing of a decision on May 19, 2004. With the present petition under 37 C.F.R. §1.137(a), Petitioner has submitted a statement of facts, the petition fee, and a copy of a phone bill.

Petitioner has met requirements (1) and (2) above. The fourth requirement is not applicable.

¹ A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”²

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”³

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁴

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.”⁵

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁶ The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”⁷

Nonawareness of a PTO rule will not constitute unavoidable delay.⁸ The burden of showing the cause of the delay is on the person seeking to revive the application .

² Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’s interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)

³ Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

⁴ Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

⁵ Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁶ Id.

⁷ See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action¹⁰.

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 present¹¹.

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable"¹².

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

§ 1.8 Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

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

⁸ See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

⁹ Id.

¹⁰ See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

¹¹ In re Mattullath, 38 App. D.C. at (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).

¹² Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

(i) Relative to Patents and Patent Applications —

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.495(b).

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a), 48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002; para. (b)(3) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(2)(ii) removed and reserved, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003]

37 C.F.R. § 1.134: Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 C.F.R. § 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to

admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

- (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt ("Office Date" Stamp) on all papers received through the mail or by facsimile except those filed under 37 CFR 1.10 (See MPEP § 513). The date stamped will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file an appeal brief. For example, if the last day to reply to a final rejection was November 10, 1997, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1997, and so certified, that appeal is timely even if it was not received in the U.S. Patent and Trademark Office until November 16, 1997. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 16, 1998. This is 2 months after the Mail Center date.

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a), 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a), 48 FR 2708, Jan. 20, 1983; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

Application of the standard to the current facts and circumstances

On May 23, 2002, Applicant was mailed a non-final Office Action, which gave a two-month period for response. With the present Petition, Petitioner sets forth that a response to this non-

final Office Action was submitted to the Office on June 17, 2002 and again on June 25, 2002. Petitioner alleges that on an unspecified date, he spoke with the Examiner over the phone and the Examiner confirmed having received the amendment. Petitioner adds "these correspondences were done according to #37CFR 1.8."

This argument is not persuasive.

The Patent Office file is the official record of the papers filed in this application. The official file has been reviewed, and the responses which was purportedly submitted on June 17, 2002 and again on June 25, 2002 have not been located.

It is noted that Petitioner has submitted neither a postcard receipt to evince receipt of the drawings, nor a certificate of mailing pursuant to 37 C.F.R. §1.8 to establish that they were sent.

The PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of facsimile transmission is properly prepared and executed. See 37 C.F.R. §1.8.

The response which was submitted with the previous petition to withdraw the holding of abandonment has been reviewed, and it is noted that the response contains the assertion:

The attached papers are the same copies of the correspondence that have been sent to the PTO by facsimile...on June 17, 2002...and June 25, 2002...with regards to case # 09/808,962

(Page 1)

It is noted that the response provided with the previous petition does not contain a certificate of mailing. Therefore, since the response is a duplicate of that which was purportedly submitted on June 17, 2002 and again on June 25, 2002, each of those submissions failed to contain a certificate of mailing. Since neither communication contains a certificate of mailing, Petitioner cannot rely on certificate of mailing practice to establish that these communications were timely submitted, and the submission of phone records cannot serve as the functional equivalent of a certificate of mailing.

Conclusion

It follows that the renewed petition must be **DISMISSED**.

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

Since the submission does not contain a certificate of mailing, it appears that Petitioner cannot furnish the evidence which would be required in order to establish that the delay was

unavoidable. If this is in fact the case, Petitioner may also wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)¹³.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. Any renewed petition may be submitted by mail¹⁴, hand-delivery¹⁵, or facsimile¹⁶.

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.

The application file will be retained in the Office of Petitions for a period of TWO MONTHS.



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

13 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.

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

15 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

16 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number will change to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. **18**

MIKHAIL LEVITIN
P.O. Box 102
REEDERS PA 18352-0102

COPY MAILED

JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
MIKHAIL LEVITIN And Boris Khaytin	:	
Application No. 09/808,962	:	DECISION ON RENEWED
Filed: March 16, 2001	:	PETITION
Title: METHOD OF RUNNING A	:	
CONDENSER FOR LIQUIDATION OF	:	
STEAM OR VAPOR	:	

This is a decision on the renewed petition filed January 4, 2006, under 37 C.F.R. §1.137(a)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 23, 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 June 24, 2002. A Notice of Abandonment was mailed on February 7, 2003.

A response to the non-final Office action was submitted on February 12, 2003. On February 24, 2003, a petition was filed to have the holding of abandonment withdrawn. This petition was dismissed via the mailing of a decision on May 19, 2004. With the original petition under 37 C.F.R. §1.137(a), Petitioner submitted a statement of facts, the petition fee, and a copy of a phone bill.

¹ A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The original petition was submitted on July 18, 2004, and was dismissed via the mailing of a decision on July 13, 2005 for failure to establish Petitioner's assertion that a response to the non-final Office Action was submitted to the Office on June 17, 2002 and again on June 25, 2002.

The decision on the original petition was mailed on July 13, 2005, and this decision set a two-month period for response. As such, the reply was due no later than September 13, 2005. Since this petition was received on January 4, 2006, consideration by this Office requires a petition for an extension of time, in order to make timely a response which has been submitted subsequent to the expiration of the period for reply.

It is noted in passing that Petitioner has not submitted a response to the petition, but has merely submitted another amendment. Petitioner will need to submit a response to the petition.

Furthermore, Petitioner may wish to review 37 C.F.R. §1.8 and MPEP §512. Both of which may be viewed online from this webpage: <http://www.uspto.gov/web/offices/pac/mpep/index.htm>.

It follows that the renewed petition must be **DISMISSED**.

The period for response continues to run from the mail date of the decision on the original petition.

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

Petitioner has submitted a change of correspondence address, but the request has only been executed by one of the two joint inventors. As such, the request cannot be granted, and the change of correspondence address cannot be effectuated, pursuant to 37 C.F.R. §§1.33(a) and (b).

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §1.137(a)," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter^{2,3}.

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

The second renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. Any renewed petition may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

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.

The application file will be retained in the Office of Petitions for a period of TWO MONTHS.



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

cc: Boris Khaytin
PO Box 102
Reeders, PA 18352

3 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

6 (571) 273-8300 – please note this is a central facsimile number.



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Paper No. ~~13~~ 20

MIKHAIL LEVITIN
P.O. Box 102
REEDERS PA 18352-0102

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
MIKHAIL LEVITIN And Boris	:	
Khaytin	:	
Application No. 09/808,962	:	DECISION ON PETITION
Filed: March 16, 2001	:	UNDER 37 C.F.R. §1.137(B)
Title: METHOD OF RUNNING A	:	
CONDENSER FOR LIQUIDATION OF	:	
STEAM OR VAPOR	:	

This is a decision on the petition filed March 24, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 23, 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 June 24, 2002. A Notice of Abandonment was mailed on February 7, 2003.

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.

Petitioner has previously submitted an amendment on January 4, 2006. With the present petition, Petitioner has submitted the petition fee.

With the present submission, Petitioner has submitted two copies of the first page of PTO form PTO/SB/64. This form consists of two pages, and each of these pages is required to be submitted - the paper file has been reviewed, and it does not appear that the second page of this form was received. As such, Petitioner has failed to include the proper statement of unintentional delay, and the petition has not been executed, as the signature block appears on the second page of this form.

37 C.F.R. §10.18(a) sets forth:

For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

It is noted that the page entitled "verification" and the certificate of mailing page each contains a signature, however the signature on these pages cannot serve as the signature which is required to be contained on the petition itself, for the portion of the C.F.R. cited above makes it clear that each piece of correspondence must contain a signature. For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision under 37 C.F.R. §1.137(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)," and should include both pages of the petition form.

The renewed petition should display "Please deliver to Paul Shanowski, c/o Office of Petitions" in a prominent manner. Any renewed petition may be submitted by mail², hand-delivery³, or facsimile⁴.

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300 - please note this is a central facsimile number.

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.

The application file will be retained in the Office of Petitions for a period of TWO MONTHS.



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



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Paper No. 22

MIKHAIL LEVITIN
P.O. Box 102
REEDERS PA 18352-0102

COPY MAILED

AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
MIKHAIL LEVITIN And Boris :
Khaytin :
Application No. 09/808,962 : DECISION ON RENEWED
Filed: March 16, 2001 : PETITION UNDER 37 C.F.R.
Title: METHOD OF RUNNING A : §1.137(B)
CONDENSER FOR LIQUIDATION OF :
STEAM OR VAPOR :

This is a decision on the renewed petition filed August 18, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 23, 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 June 24, 2002. A Notice of Abandonment was mailed on February 7, 2003.

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.

Petitioner has previously submitted an amendment on January 4, 2006. The original petition was submitted on March 24, 2006, along with the petition fee. This petition was dismissed via the mailing of a decision on June 21, 2006, for failure to sign the petition, as required by 37 C.F.R. §10.18(a).

The present petition has been executed, and contains the proper statement of unintentional delay.

As such, this renewed petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of January 4, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/21/06

TO SPE OF : ART UNIT **2622**

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/808991__ Patent No.: 6963414

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

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

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



Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____



2622

SPE

Div Art Unit

Response to Rule 312 Communication	Application No. 09/808,991	Applicant(s) IGUCHI, SHUNSUKE	
	Examiner Arthur G. Evans	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. The amendment filed on 2-10-05 under 37 CFR 1.312 has been considered, and has been:

- a) entered.
- b) entered as directed to matters of form not affecting the scope of the invention.
- c) disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) disapproved. See explanation below.
- e) entered in part. See explanation below.


ARTHUR G. EVANS
SENIOR PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/12/09

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 09808991 Patent No.: 6963414 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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



LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

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Comments: _____

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_____ This case was allowed in the first office action. This case does not contain double patenting rejection, no terminal disclaimer was filed. Therefore, the request is correct and approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Edward L. Coles/ SPE

Art Unit 2625

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
Marshall, et al. :
Application No. 09/809,004 : ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. 1305/23 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed November 28, 2005. This Office action set an extendable period for reply of one month. No extensions of time were obtained. Accordingly, 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, applicant 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 concerning this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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

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MAR 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,351,561 :
Issue Date: April 1, 2008 :
Application No. 09/809,021 : **DECISION ON PETITION**
Filed: March 16, 2001 :
Attorney Docket No. 06478.1452 :

This is a decision on the petition under 37 CFR 1.181, filed December 1, 2008, which is being treated as a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The fee for a petition filed under 37 CFR 1.182 is \$400. The instant petition included a petition fee of \$130. The balance of \$270 has been charged to petitioner's deposit account.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Naomi Farmer in the Publishing Division at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Naomi Farmer, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)



Paper No. 7

ROTHWELL FIGG ERNST & MANBECK PC
555 13TH STREET N W
SUITE 701, EAST TOWER
WASHINGTON, DC 20004

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JAN 15 2002

OFFICE OF PETITIONS

In re Application of :
Martin C. Barnardo et al :
Application No. 09/809,029 :
Filed: March 16, 2001 :
Attorney Docket No. 1181-251 :

NOTICE

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

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

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

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

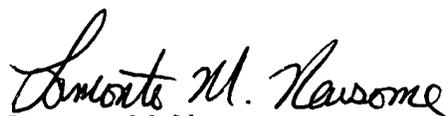
This file is being forwarded to Technology Center AU 1641.


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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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



Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

LMN



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Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

MAILED
SEP 30 2009
OFFICE OF PETITIONS

In re Patent No. 7,313,822 :
Issue Date: December 25, 2007 :
Application No. 09/809,030 : ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. 58525.00004.UTL1 :

This is a decision on the petition filed August 7, 2009, 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 request is **GRANTED**.

Petitioner states that the correct assignee's name is "Kavado, Inc." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Kavado, Inc." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long horizontal line extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions



**MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833**

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JUN 29 2004

In re Application of :
Dominique B. Riche et al :
Application No. 09/809,050 : **OFFICE OF PETITIONS**
Filed: March 16, 2001 : **DECISION GRANTING PETITION**
Attorney Docket No. T2154-906845 : **UNDER 37 CFR 1.55(c)**

This is a decision on the petition filed January 16, 2004, 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 France Application No. 0102948, filed March 5, 2001.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

- (1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign 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 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 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,

¹ The claim must identify in the oath or declaration the 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 specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

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 16, 2001, which is after November 29, 2000 and within 12 months of March 5, 2001 (the filing date of the foreign application to which benefit is now being claimed). On January 16, 2004, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is **granted**.

This application is being referred to the Office of Patent Publication Division.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8859.



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

ATTACHMENT: Filing Receipt



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9003 FLORIN WAY
UPPER MARLBORO, MD 20772

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of :
Eyal Rosin et al :
Application No. 09/809,053 : DECISION GRANTING PETITION
Filed: March 16, 2001 : UNDER 37 CFR 1.313(c) (2)
Attorney Docket No. 968/34 :

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

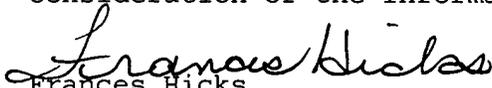
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 1, 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 2183 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).



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Mr. Gary Otte & Mr. Sam Dworetzky
AT&T
412 Mount Kemble Avenue
Morristown, NJ 07960

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of :
Glendon R. Diener :
Application No. 09/809,084 : ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. 2000-EM001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed November 22, 2004. A Notice of Abandonment was mailed on June 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. In the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. Also, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If petitioner desires to receive correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The Office also acknowledges receipt of a specification and \$250 in claim fees.

The Request for Withdrawal as Attorney or Agent with new correspondence address filed July 12, 2005, has been made of record. Therefore, all correspondence regarding this application will be mailed to the new address listed above.

The application file is being referred to Technology Center Art Unit 2161 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

cc: Richard C. Irving
650 Lindy Lane
Huntingtown, MD 20639



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ATTN: PATENT DOCKETING
ONE AT & T WAY, ROOM 2A-207
BEDMINSTER NJ 07921**

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Diener, Glendon R.	:	
Application No. 09/809,084	:	ON PETITION
Filed: March 16, 2001	:	
Attorney Docket No. 2000-EM001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center AU 2161 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions



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DAVID E. HEISEY
c/o LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 WEST BROADWAY, SUITE 2600
SAN DIEGO CA 92101

In re Application of
Daniel LIEBERMAN
Application No. 09/809,121
Filed: March 15, 2001
Attorney Docket No. 32574-2/P02

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DEC 02 2005

OFFICE OF PETITIONS

~~RECEIVED~~
~~CANCELLED~~
DEC 02 2005
OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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 application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 22, 2002 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 23, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and amendment under 37 CFR 1.114; (2) the petition fee of \$750 for a small entity as set forth in 37 CFR 1.17(m); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of November 22, 2002 is accepted as having been unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 of the reply for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178; 1203 Off. Gaz. Office at 88 and 103 (responses to comments 64 and 109 (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office)).

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 3729 for appropriate action.



Frances Hicks
Lead Petitions Examiner
Office of Petitions



DAVID E. HEISEY
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
SUITE 2600
600 WEST BROADWAY
SAN DIEGO CA 92101

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of :
Daniel Lieberman :
Application No. 09/809,141 :
Filed: March 15, 2001 :
Attorney Docket No.: 32572-2 :

ON PETITION

This is a decision on the petition filed October 26, 2005 under 37 CFR 1.137(b),¹ 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 18, 2002. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March 19, 2003. Accordingly, a Notice of Abandonment was mailed July 9, 2003.

This matter is being referred to Technology Center 1763 for appropriate action on the amendment filed October 26, 2005.

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

¹Effective 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)).



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LEIGHTON K CHONG
GODBAY GRIFFITHS REISS & CHONG
1001 BISHOP STREET PAUAAHI TOWER SUITE 2300
HONOLULU HI 96813

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NOV 20 2006

OFFICE OF PETITIONS

In re :
Toshiaki Kato :
Application No. 09/809,147 : DECISION ON APPLICATION
Filed: March 14, 2001 : FOR PATENT TERM ADJUSTMENT
Docket No. SQR-P1 :

This is a decision on the "REQUEST TO CORRECT PATENT TERM ADJUSTMENT", filed August 28, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred thirty (530) days to seven hundred fifty-one (751) days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED**. Applicant did not pay the required \$200 PTA fee, and as such, the Office will not look into the matter on the merits. No authorization to charge a deposit account could be found.

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

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



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United States Patent and Trademark Office
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Paper No. 9

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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MAY 06 2004

OFFICE OF PETITIONS

In re Application of

McDaniel, et al.

Application No. 09/809,155

Filed: March 5, 2001

Attorney Docket No. 00P 7500 US01

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned under 37 CFR 1.137." The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on June 25, 2001, it was believed that applicant failed to provide a complete response to the Notice to File Missing Parts of Nonprovisional Application mailed April 24, 2001. The Notice to File Missing Parts of Nonprovisional Application allowed an extendable period for response of two months from its mailing date. A response was received on June 18, 2001, but did not include a substitute specification as required by the Notice to File Missing Parts of Nonprovisional Application. A Notice of Incomplete Reply was mailed on June 27, 2001, indicating that the reply of June 18, 2001, was incomplete and explaining that the period for reply continued to run from the mailing date of the Notice to File Missing Parts of Nonprovisional Application. No further responses were believed to have been received and the application became abandoned on June 25, 2001. A Notice of Abandonment was mailed on December 11, 2003. The instant petition was filed on February 9, 2004.

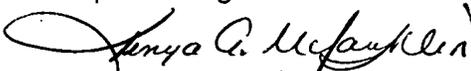
A review of the application file revealed a filing made August 22, 2001, titled, "Response to Notice of Incomplete Reply (Nonprovisional)" that included a substitute specification. The response also included an authorization to charge deposit account 19-2179 for any fee due that would have allowed for an extension of time within the second month necessary to make the response of August 22, 2001, timely.

Based on the aforementioned, it is evident that a complete and timely response to the notice to File Missing Parts of Nonprovisional Application was received and that the holding of abandonment was improperly imposed. The holding of abandonment is, therefore, withdrawn and the Notice of Abandonment vacated as of the mailing date of this decision.

The fee for the petition to revive will be refunded to deposit account 19-2179, in due course.

Deposit account 19-2179 will be charged \$400.00 for the extension of time within the second month.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



**PLATON N. MANDROS
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404**

COPY MAILED

JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Yasushi Yamade :
Application No. 09/809,168 :
Filed: March 16, 2001 :
Attorney Docket No. 018775-820 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 filed on July 19, 2005.


Wan Laymon

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

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



Paper No.

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

COPY MAILED

NOV 10 2003

OFFICE OF PETITIONS

In re Application of	:	
Yusuke Amino et al	:	
Application No. 09/809,197	:	ON PETITION
Filed: March 16, 2001	:	
Attorney Docket No. 203348USOCONT	:	

This is a decision on the petition, filed by facsimile transmission on November 6 and 7, 2003,¹ under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

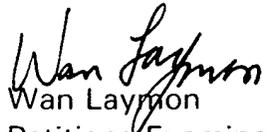
Petitioner is advised that the issue fee paid on June 23, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.²

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

¹ The original petition filed November 5, 2003 via the return postcard receipt.

² 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).

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.



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



Paper No. _____

Date : November 10, 2003
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

Applicant(s) : Yusuke Amino et al
Application No. : 09/809,197
Filed : March 16, 2001

The above-identified application has been assigned Patent No. 6,649,785 and an issue date of November 18, 2003.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 18, 2003:

"All reference to Patent No. 6,649,785 to Yusuke Amino et al of Kawasaki-shi, JAPAN for N-ALKYLASPARTYL DIPEPTIDE ESTER COMPOUNDS appearing in the Official Gazette of November 18, 2003 should be deleted since no patent was granted."


Wan Laymon

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 03242005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

MAR 25 2005

In re Application of: :
Masao MURADE :
Serial No.: 09/809,207 :
Filed: March 16, 2001 :
For: Docket No. 108092 :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed May 14, 2004, to withdraw the holding of abandonment of the above-identified application and to re-mail the Notice of Allowance and Fee(s) Due action of December 18, 2004.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due action was mailed on December 18, 2003, setting forth a statutory period of three months to pay the issue fee. The application became abandoned for failure to pay the issue fee.

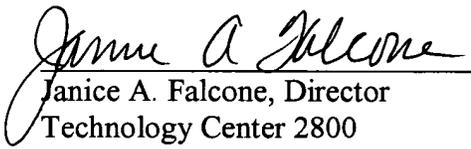
Petitioner asserts that the Notice of Allowance and Fee(s) Due action mailed on December 18, 2003 was not received. To support this assertion, petitioner includes a copy of the docket records for the Law Firm of Oliff & Berridge, PLC listing all the responses in their office with a due date of March 18, 2004, had the December 18, 2003 Notice of Allowance and Fee(s) Due action been received it would have entered into the docket records showing a base date of December 18, 2003 and a due date of March 18, 2004.

A review of the written record indicates that the Notice of Allowance and Fee(s) Due action was returned as undelivered mail by the US Postal Service on December 30, 2003. The record does not indicate that the Notice of Allowance and Fee(s) Due action was re-mailed pursuant to MPEP 707.13.

For the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The Notice of Allowance and Fee(s) Due action will be re-mailed and period for response will be reset to run three months from the date it is re-mailed.

The delay in re-mailing the Notice of Allowance and Fee(s) Due action and any inconvenience it may have caused the petitioner is regretted.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



MAY 19 2006

Jay A. Stelacone
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300I Street, NW
Washington, D.C. 20005

In re Application of: Jean-Louis H. Gueret :
Appl. No.: 09/809,268 : DECISION ON PETITION
Filed: March 16, 2001 :
For: Product Applicator and Packing Unit Comprising :
Such Applicator :

This is a decision on the petition filed on July 23, 2003 by which petitioners request supervisory review of, and reconsideration and reversal of the examiner's withdrawal of claims pursuant to an election of species requirement as set forth on July 8, 2002, traversed by petitioners on Jan. 22, 2003, and *made final* in the Office action of October 22, 2002. The petition is considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the prosecution history shows that:

1. As filed, this application contained claims 1-22 which were cancelled and replaced with claims 23-222 by the preliminary amendment filed on 3/16/01.
2. On July 8, 2002, the examiner promulgated a requirement for election of species¹ of Figs. 1-8.
3. In response to the examiner's election of species requirement, on Aug. 7, 2002, the applicant has elected Fig. 4 and indicated claims 23-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-154, 156-161, 163, 164, 174-203, 205 and 214-222 were directed to the elected species of Fig. 4.
4. On Oct. 22, 2002, the examiner promulgated a first action on the merits only for claims 136, 137, 146, 148-152, 156, 161, 163, 174, 175, 179 and 189-190. The examiner further held that the

¹ It is noted that the most recent version of the MPEP dated August 2005 has been revised to include a requirement for the examiner to specifically address the issue of serious burden should either an election of species between independent inventions or a restriction between independent or distinct inventions be made. This however was not the procedure proscribed by the MPEP at the time of issuance of the original requirement herein.

elected claims 23-135, 138-145, 147, 153-155, 157-160, 162, 164-173, 176-178, 180-188 and 191-222 do not read on the elected species of Fig. 4.

5. In response, on Jan. 22, 2003, petitioner filed a request for re-consideration of the withdrawal of claims 23-135, 138-145, 147, 153-155, 157-160, 162, 164-173, 176-178, 180-188 and 191-222 and the traversal of the rejection of claims 136, 137, 146, 148-152, 156, 161, 163, 174, 175, 179 and 189-190.

6. On April 23, 2003, the examiner responded to the request for re-consideration by promulgating a final rejection. In the final rejection, the examiner also repeated the restriction requirement and made final.

7. On July 23, 2003, the petitioner filed the current petition requesting supervisory review of, and reconsideration and reversal of the examiner's withdrawal of claims 23-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-135, 138-145, 147, 153, 154, 157-160, 164, 176-178, 180-188, 191-203, 205 and 214-222.

Relevant Disclosed Inventions

A review of the application and of the claims shows that the claimed invention is an apparatus for powdery or pasty product and method to apply a cosmetic product to a surface region. The invention relates to the application of a make-up product such as eye shadow, cheek blusher, make-up foundation, eyeliner, a nail-care product, liquid lip rouge, loose powder, paints, adhesives, pasty or other liquid product, by using a sandwich-type applicator. The sandwich-type product applicator is made of a semi-rigid support including at least one soft spongy material. The support has an applicator portion and a gripping portion. The gripping portion is covered, at least in part, by at least one layer of a first soft spongy material the flexibility of which is greater than the flexibility of the support. Applicator portion is made of either a tuft of bristles, a pencil brush, a feather, a sponge, a baize material or a foam end fitting fixed to a gripping portion such as a rigid plastic handle. The applicator portion may be a portion of the support covered, at least in part, by at least one layer of a second soft spongy material. The first and the second materials may be identical or different. These materials are identical and are formed of a material chosen from foams of polyurethane, polyester, polyether, polyvinyl chloride or polyethylene. The first and/or the second spongy material fixed to one side of the applicator may be a leakproof foam with closed cells. This material makes it possible to obtain an applicator having one side impervious to the product. At least one of the spongy materials may be flocked or covered with a fabric or a silicone layer. The spongy materials may be impregnated with active cosmetic agents, anti-bactericidal agents, fungicides and agents filtering ultraviolet radiation. The support may have at least two parallel sides, which allows the applicator to be held more easily between the fingers. The support may be made of cardboard, plastic, leather, or a foam that is more rigid than the first and second spongy materials. The applicator may have any shape. It may take the form of a strip of uniform width, or one having a thin portion and a wide portion, or even the form of a puff. The wide portion may have, as viewed from above, a polygonal or circular shape. The puff may have a polygonal, square or circular shape. The applicator may have a median axis parallel to the parallel sides of the support and the applicator portion. The gripping portion may be symmetrical relative to this median

axis. The first spongy material may be fixed to one of the sides, or to the two sides, of the support. The second spongy material may be fixed to one of the sides or to the two parallel sides. The first and second materials are fixed to the same side of the support. The applicator may have on the same side one or several layers of a spongy material that are identical or different, both as regards the gripping portion and the applicator portion. Thus the flexibility of the applicator portion and of the gripping portion may be identical or different. In particular, it is possible to use spongy materials which are incompatible with one another and which cannot be welded directly to one another. In this case, the materials are bonded to the support, and possibly to one another in the case of multilayer materials. Moreover, the layer or layers of the first and second materials may be joined or separated in a plane parallel to the sides of the support. The applicator may have one or several cutouts traversing the support and the first and/or second materials from one side to the other, i.e., through its thickness. This cutout or cutouts may be in the gripping portion and/or the applicator portion. It has the effect of modifying the flexibility of the support of the applicator. In particular, when the cutout is in the gripping portion, the softness of the gripping fingers is increased. The user may hold the rigid handle of the applicator, impregnate the applicator portion with the make-up product and place the impregnated applicator portion into contact with the skin to be made up, e.g. the eyelid or the cheek.

Four embodiments on different applicators appear to be disclosed and illustrated as Figs. 1-4, respectively. Figs. 5-7 illustrate various shapes of the four embodiments on different applicators. Fig. 8 illustrates a packaging unit for the applicators.

Readability of Non-Elected Claims

The examiner in his office action of Oct. 22, 2002 held that the claims 23-135, 138-145, 147, 153-155, 157-160, 162, 164-173, 176-178, 180-188 and 191-222 do not read on the elected specific of Fig. 4 because these claims are not generic. There is no support found in the elected species of Fig. 4. Particularly, the examiner specifically stated that claim 23 requires that the material of gripping portion covering the second end of the flexible support be impervious to a cosmetic product as disclosed the only material being described as impervious is material 16b which in the species of Fig. 4 is not covering a second end of the flexible support which is part of the gripping portion 6. The examiner further stated that claim 24 requires that the flexible support be cardboard and species of Fig. 4 does not disclose or show.

The bulk of Petitioner's position that the claims 23-135, 138-145, 147, 153-155, 157-160, 162, 164-173, 176-178, 180-188 and 191-222 do read on the elected specific of Fig. 4. In particular, the petitioner argued that the various claimed elements are exemplary feature and generic to all disclosed embodiments.

Analysis of the Record in This Application

As noted in MPEP 2111, 2111.01, during patent examination, claims are given their broadest reasonable interpretation consistent with the specification.

A careful review of the Summary of The Invention reveals that the support of claim 23 can be found on Page 3, lines 24-26 and page 5, lines 3-6. The spongy material for elements 16c, 16d is

impervious to the cosmetic product. These claimed flexible materials are generic to all disclosed embodiments.

Claim 23. A layered product applicator 1 comprising: an applicator portion 4 comprising a first end of a flexible support, said application portion being configured to apply a cosmetic product; and a flexible elongated gripping portion comprising a second end of the flexible support 2 and at least one layer of a flexible material (16c or 16d) covering the second end (at 6) of the flexible support 2, the flexibility of said material of said at least one layer being greater than the flexibility of the support 2, said flexible material 16c, 16d being impervious to the cosmetic product.

With regard to claim 24, the support can found on page 4, lines 10-12 and page 7, lines 15-16. Again, the flexible support 2 comprises cardboard in claim 24 is generic to all embodiments.

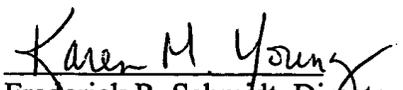
Claim 24. A layered product applicator comprising: an application portion 4 comprising a first end of a flexible support 2; and a flexible elongated gripping portion 6 comprising a second end of the flexible support 2 and at least one layer of a flexible material 16c or 16d covering the second end of the flexible support 2, the flexibility of said material of said at least one layer being greater than the flexibility of the support, wherein the flexible support comprises cardboard 2.

Based on the similar analysis as applied to claims 23, 24 for the remainder claims, Petitioner correctly opined on pages 5-15 of the Petition that all claimed elements as set forth in claims 26-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-135, 138-145, 147, 153, 154, 157-160, 164, 176-178, 180-188, 191-203, 205 and 214-222 are exemplary features to all disclosed embodiments.

For the reasons as stated above, claims 23-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-135, 138-145, 147, 153, 154, 157-160, 164, 176-178, 180-188, 191-203, 205 and 214-222 must be rejoined and examined. Accordingly, the withdrawal of claims 23-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-135, 138-145, 147, 153, 154, 157-160, 164, 176-178, 180-188, 191-203, 205 and 214-222 from consideration by the examiner is hereby vacated.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3732 who will have the examiner promulgate an action on the merits of the presently pending claims 23-34, 36-39, 41-62, 64-69, 71, 72, 82-108, 110-115, 117, 118, 128-135, 138-145, 147, 153, 154, 157-160, 164, 176-178, 180-188, 191-203, 205 and 214-222 not inconsistent with this Decision.

PETITION GRANTED

for 
Frederick R. Schmidt, Director
Technology Center 3700



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

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OFFICE OF THE DIRECTOR
TC 3600

Gowling, Lafluer, Henderson LLP
Suite 4900
Commerce Court West
Toronto, ON M5L 1J3
Canada

Paper No. 5

In re application of : **DECISION ON PETITION**
Robert K. Smith : **TO MAKE SPECIAL**
Application No. 09/809,307 : **(INFRINGEMENT)**
Filed: March 16, 2001
For: FREE FLOATING SUB-FLOOR PANEL

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 20, 2002 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 20, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 2/27/02



FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

DEC 17 2008

In re Application of :
Campbell, et al. : LETTER REGARDING PTA
Application No. 09/809,325 :
Filed: March 16, 2001 :
Atty. Dkt. No.: : 08049.0002 :

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT LETTER AND REQUEST FOR CLARIFICATION OF CALCULATION," filed July 18, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 21, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 716 days. Applicants indicate that the correct adjustment is 624 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 504 days.

Applicants do not set forth with specificity any perceived errors in the calculation of adjustment.

A review of the calculation does not reveal error in the adjustments totalling 1,056 days accorded for USPTO delays or the reductions totalling 340 days accorded for applicants' failure to engage in reasonable efforts to conclude prosecution.

However, a review of the record reveals that the Office neglected to assess two separate reductions for delays on the part of applicants.

The adjustment totalling 1,056 days is properly reduced an additional 120 days in accordance with 37 CFR 1.704(b) in connection with the reply to the Notice to File Missing Parts mailed April 24, 2001. Accordingly, the reduction commenced July 25, 2001, the day after the date that is three months after the date that the Notice to File Missing Parts was mailed, and ended

November 21, 2001, the date that a reply to the Notice to File Missing Parts was filed.

The adjustment totalling 1,056 days is further properly reduced 92 days in accordance with 37 CFR 1.704(b) in connection with the Request for Continued Examination (RCE) filed June 1, 2006. The reduction commenced March 2, 2006, the day after the date that is three months after the date that the final rejection was mailed, and ended June 1, 2006, the date that the RCE was filed.

Accordingly, at the time of allowance, the application is entitled to an overall adjustment of 504 days (adjustments totalling 1,056 days less reductions totalling 552 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.



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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Tuesday
Date: 12/16/2008**PALM INTRANET**

Time: 14:13:11

PTA Calculations for Application: 09/809325

Application Filing Date:	03/16/2001	PTO Delay (PTO):	1056
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	340
Post-Issue Petitions:	0	Total PTA (days):	504
PTO Delay Adjustment:	-212		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		212	
58	04/21/2008	MAIL NOTICE OF ALLOWANCE			
57	04/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	03/31/2008	ISSUE REVISION COMPLETED			
55	03/21/2008	DOCUMENT VERIFICATION			
54	03/21/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
53	03/17/2008	EXAMINER'S AMENDMENT COMMUNICATION			
52	03/17/2008	NOTICE OF ALLOWABILITY			
49	02/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	02/12/2008	DATE FORWARDED TO EXAMINER			
47	01/11/2008	RESPONSE TO ELECTION / RESTRICTION FILED		90	45
46	01/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	07/13/2007	MAIL RESTRICTION REQUIREMENT	20		36
44	07/09/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
43	05/07/2007	DATE FORWARDED TO EXAMINER			
42	05/03/2007	SUPPLEMENTAL RESPONSE		69	36
41	05/04/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	05/02/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	04/25/2007	MISCELLANEOUS INCOMING LETTER			
38.7	02/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

38	02/23/2007	FILED			
37	03/08/2007	DATE FORWARDED TO EXAMINER			
36	02/23/2007	RESPONSE AFTER NON-FINAL ACTION		91	34
35	02/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	08/24/2006	MAIL NON-FINAL REJECTION			
33	08/21/2006	NON-FINAL REJECTION			
32	06/10/2006	DATE FORWARDED TO EXAMINER			
31	06/01/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	06/10/2006	DATE FORWARDED TO EXAMINER			
29	06/01/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
28	06/10/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
27	06/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	06/01/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
25	12/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
24	11/28/2005	FINAL REJECTION			
23	09/26/2005	DATE FORWARDED TO EXAMINER			
22	09/15/2005	RESPONSE AFTER NON-FINAL ACTION		90	16
21	09/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	09/01/2004	REFERENCE CAPTURE ON IDS			
19.7	09/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	06/25/2004	REFERENCE CAPTURE ON IDS			
17.7	06/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/17/2005	MAIL NON-FINAL REJECTION	1036		-1
15	03/16/2005	NON-FINAL REJECTION			
14	01/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	08/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/17/2004	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
11	06/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	08/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	07/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	02/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	02/02/2002	TRANSFER INQUIRY TO GAU			
5	12/03/2001	APPLICATION DISPATCHED FROM OIPE			
4	11/30/2001	APPLICATION IS NOW COMPLETE			
3	04/23/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/04/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/16/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Frank Rademacher	: DECISION ON REQUEST FOR
Patent Number	: 7629996	: RECALCULATION OF PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/809,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1052** 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.



Paper No. 6

HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004

COPY MAILED

JAN 10 2002

OFFICE OF PETITIONS

In re Application of :
McCarthy & Ingram :
Application No. 09/809,429 : DECISION REFUSING STATUS
Filed: 16 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 111472.120US1 :

This is in response to the petition filed under 37 CFR 1.47(a) on 17 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 on 16 March, 2001, without an executed oath or declaration. Accordingly, on 17 May, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing.

In response, on 17 December, 2001, petitioners filed a request

and payment for a five (5) month extension of the time to reply to the aforementioned Notice, accompanied by an executed declaration naming Peter J. McCarthy and Kevin Ingram as joint inventors and signed by joint inventor McCarthy on behalf of himself and joint inventor Ingram, and the requiring filing fees, surcharge, and petition fee.

Petitioners assert that Ingram was sent a draft application but failed to sign and return the declaration, which was subsequently sent to him.

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 as filed (specification including claims, drawings if any, and the declaration) was sent or given to the non-signing inventors. The affidavit of petitioner's registered patent attorney, Gregory S. Discher, states that a "first draft" of the application was sent to TruMarkets, the assignee, and that the declaration was subsequently sent to Ingram. Thus, petitioners have not shown that the application papers were ever sent or given to Ingram.

Petitioners should send a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address with a request that he sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or provide 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

inventors refuse to sign the declaration after being sent or given a copy of the application papers. 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:

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
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Paper No. 9

GREGORY S. DISCHER
HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Peter J. McCarthy et al. :
Application No. 09/809,429 :
Filed: March 16, 2001 :
For: SYSTEM, METHOD AND MEDIUM :
FOR TRADING FIXED INCOME :
SECURITIES :
: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

Papers filed on February 21, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed January 10, 2002, included a Declaration signed by previously nonsigning inventor Kevin Ingram in compliance with 37 CFR 1.63.

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

This application is being forwarded to the Initial Patent Examination Unit.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.


Frances Hicks

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



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FEB 03 2004

Paper No. 15

In re Application of
James G. Retzloff *et al*
Application No. 09/809,454
Filed: March 15, 2001
Attorney Docket No. VIK01 P-331

Director's Office
Group 3700 : DECISION ON PETITION

This is a decision on the petition, filed by facsimile transmission on January 20, 2004, by which petitioners request withdrawal of the finality of the examiner's Office action dated October 17, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the \$130.00 petition fee will be credited to Deposit Account No. 22-0190.

The petition is dismissed as being untimely filed.

37 CFR 1.181(f) reads:

"The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable." (Emphasis supplied.)

As the instant petition was filed more than two months after the action from which relief is requested, the petition is untimely filed.

As a courtesy to petitioners, a cursory review of the petition on its merits has been undertaken. That review shows that the petition does not appear to set forth an adequate basis for the relief requested. The MPEP material quoted and relied upon in the petition appears in MPEP § 706.07(b). However, the phrase "would have been properly finally rejected on the grounds and art of record in the next Office action ..." refers to the propriety of the final rejection as a matter of procedure, i.e. as a matter of the procedural practice describe in MPEP § 706.07(b). The issue of whether the rejections promulgated by the examiner are legally correct on their merits is irrelevant to the question of whether the examiner's action was properly made final as matter of procedure. The legal correctness of the rejections in the action is not petitionable, since it that issue is appealable. See 37 CFR 1.181(a)(1). Petitioner cannot obtain relief on a procedural matter by way of a petition based solely upon resolution of an issue which is appealable and not petitionable. Similarly, the fact that the examiner allowed some claims on the merits is irrelevant to the question of whether it was procedurally proper to close prosecution on the rejection rejected claims by making the action final.

Petitioners are entitled to file a renewed petition, without fee, addressing the matter of timeliness of the filing of the original petition and demonstrating a basis for excusing the late filing of the original petition. If such renewed petition is granted, petitioners will then be entitled to a formal and detailed review of the substance of the original petition. The filing of a renewed petition will not stay any period for reply that may be running against the application or act as a stay of other proceedings. See 37 CFR 1.181(f).

PETITION DISMISSED.


Richard A. Bertsch, Director
Technology Center 3700

Van Dyke, Gardner, Linn and Burkhart, LLP
2851 Charlevoix Drive, S.E.
P.O. Box 888695
Grand Rapids, MI 49588-8695



**PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI LLP
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH PA 15219-6404**

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MAY 22 2008

In re Application of :
Michael WHOLEY et al. :
Application No. 09/809,468 : **DECISION ON PETITION**
Filed: March 15, 2001 :
Attorney Docket No. **180431-00015** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 23, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 25, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the petition fee of \$770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of January 22, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3761 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



Paper No. 8

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

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of
P. Read Montague et al.
Application No. 09/809,481
Filed: March 15, 2001
Title: METHOD AND SYSTEM FOR LINKED
COMMUNICATION BETWEEN CLIENT STATIONS
Attorney Docket No. HO-P01963 US1
Pub. Date: November 11, 2001

:
: DECISION ON
: PETITION UNDER
: 37 CFR § 1.182
:
:
:

This is a decision on the petition under 37 CFR 1.182 filed July 3, 2001, requesting that replacement drawing sheets 1-10 be included in the patent application publication.

The petition is DISMISSED AS MOOT.

On March 15, 2001, the application was filed claiming the benefit of provisional application 60/189,567, filed on March 15, 2000.

On July 3, 2001, the petition under 37 CFR 1.182 requesting that replacement drawings sheets 1-10 be included in the patent application publication was filed.

On November 11, 2001, Patent Application Publication US 2001/0037365 A1 was published.

The drawing sheets were not received within the later of one month from the filing date of the application or fourteen months from the earliest filing date for which a benefit is sought under title 35, United States Code.¹ While replacement drawings that are received later than this date may be included in the patent application publication, the drawings were not able to be used in the patent application publication. Since the patent application publication has already published as US 2001/0037365 A1, the petition is dismissed as moot.

The application is being forwarded to Technology Center 2100 to await further examination in due course.

Telephone inquiries specific to this matter should be directed to Mark O. Polutta at (703) 308-8122.

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

¹Drawings in Patent Application Publications and Patents, 1242 Off. Gaz. Pat. Office Notices 114 (Jan.16, 2001).



Paper No. 8

Fulbright & Jaworski LLP
Suite 5100
1301 McKinney
Houston, TX 77010-3095

In re Application of: P. Read Montague et al.)	
Application No. 09/809,481)	
Filed: March 15, 2001	)	DECISION ON PETITION UNDER 37
For: METHOD AND SYSTEM FOR	)	C.F.R. § 1.182
LINKED COMMUNICATION)	
BETWEEN CLIENT STATIONS)	

This is a decision on the "Petition for Replacement Drawings for Inclusion in Patent Application For Publication" (filed July 3, 2001), filed under 37 C.F.R. §1.182.

The petition is accompanied by 10 sheets of replacement drawings. However, the present patent application has already published as Pre-Grant Publication US2001/0037365 A1 on November 11, 2001.

Accordingly, the petition is **MOOT**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.] Needed?

Allen R. MacDonald, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

Should P be added about
having examiner consider
corrected drawing when
examining the case?



MAILED

OCT 01 2001

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

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

In re Application of : A. Keene
Application No. 09/809,494
Filed: March 15, 2001
For: SYSTEM AND METHOD FOR CHECK
EXCEPTION ITEM NOTIFICATION

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed March 15, 2001 under 37 C.F.R. §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. § 102(d) states in relevant part:

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

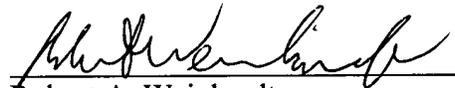
- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;
- (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

Applicant's submission is deficient in that it does not comply with (B) and (E) above. With respect to (B), while a statement is found regarding making an election without traverse if the claims are not directed to a single invention, no statement is found asserting that all the claims presented are directed to a single invention. With respect to (E), while applicant discusses the content of the references and argues that they do not disclose how exception clients are notified of exception items by the payor bank, such limitations are not found in all the independent claims. Independent claims 23 and 25 have a different scope that is not covered by the discussion of the references.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.



Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780



MAILED

FEB 26 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

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

In re Application of : A. Keene
Application No. 09/809,494
Filed: March 15, 2001
For: SYSTEM AND METHOD FOR CHECK
EXCEPTION ITEM NOTIFICATION

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition filed January 2, 2002 resulting from the decision mailed October 1, 2001 regarding the petition filed March 15, 2001 under 37 C.F.R. §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. § 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.

Based on the certificate of mailing, the request for reconsideration is seen as timely. Applicant's submissions filed March 15, 2001 and January 2, 2002 together meet all the criteria set forth above and the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780



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

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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JUN 04 2007

OFFICE OF PETITIONS

In re Patent No. 6,984,293 :
Application No. 09/809,534 :
Filed: March 15, 2001 :
Issued: January 10, 2006 :
Attorney Docket No. 2027.601000 :

ON PETITION

This is a decision on the petition filed March 24, 2006, which is being treated as a request under 37 CFR 3.81(b)¹ to add the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.


Frances Hicks
Petitions Examiner
Office of Petitions

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



Paper No. 9

TIMOTHY E. NAUMAN
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, 7TH FLOOR
CLEVELAND, OH 44114

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NOV 21 2003

OFFICE OF PETITIONS

In re Application of :
Gerard de Cort, et al. :
Application No. 09/809,541 : ON PETITION
Filed: March 15, 2001 :
Attorney Docket No. LDPQ00681 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 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 July 17, 2001.

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

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

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



Paper No. 7

ALLEGHENY TECHNOLOGIES INCORPORATED
1000 SIX PPG PLACE
PITTSBURGH, PA 15222

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APR 15 2003

In re Application of	:	OFFICE OF PETITIONS
Steven H. Reichman	:	
Application No. 09/809,548	:	ON PETITION
Filed: March 15, 2001	:	
Attorney Docket No. RL-1970	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed 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.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/09

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No 09/809,595 No.: 7,590,688

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

**Should the change
Be made?**

RoChau Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

SPE

Art Unit

Johnson, Rochaun

From: Siddiqi, Mohammad
Sent: Thursday, October 22, 2009 1:55 PM
To: Flynn, Nathan
Cc: Johnson, Rochaun
Subject: RE: SPE's Response for IFW doc 09/809,595 7590688

Attachments: SPE's Response for IFW docs (3) (2) (2) (3) (2) (2).doc



**SPE's
Response for IFW d**

Nathan,

Please find attached certifications of correction for your review. I have approved it. Let me know if I need to do anything more formally.

thanks

-----Original Message-----

From: Johnson, Rochaun
Sent: Tuesday, October 20, 2009 9:35 AM
To: Siddiqi, Mohammad
Subject: SPE's Response for IFW doc 09/809,595 7590688

Please review the attached PTOL 306 form requesting approval or denial of the C of C dated 10/09/09 requesting to make a change to the title page and the claims. Please respond by approving or denying and signing the PTOL 306, and have it scanned into e-dan as COCOX or e-mail the completed PTOL 306 form back to me and I will have it scanned. You may also fax the completed form to 571 270-9754. The Attorney is calling for the status.

Your immediate attention is greatly appreciated.

Thank you,

RoChaun Johnson

571 272-0470



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Russell D. Orkin
700 Koppers Building
436 Seveth Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant : Paul D. Franke : DECISION ON REQUEST FOR
Patent Number : 7590688 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/809,595 : OF WYETH AND NOTICE OF INTENT TO
Filed : 03/15/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1211** 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.



MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

COPY MAILED

AUG 04 2005

OFFICE OF PETITIONS

In re Application of
Wilson
Application No. 09/809,602
Filed: March 14, 2001
Attorney Docket No. ADAPP085A2

:
: **DECISION ON PETITIONS**
: **UNDER 37 CFR 1.78(a)(3) AND**
: **UNDER 37 CFR 1.78(a)(6)**
:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 25, 2005 (certificate of mailing July 21, 2005), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional 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 applications is submitted after expiration of the period

specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed applications. Additionally, newly claimed application no. 09/490,630 was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/117,226, which was filed on January 26, 1999 and Application No. 60/163,266, which was filed on November 3, 1999, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 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. §§ 120 and 119(e) to the prior-filed nonprovisional and provisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), 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) and 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 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 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. 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 dates.

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2143 for appropriate action on the amendment submitted July 25, 2005 (certificate of mailing date July 21, 2005), including 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 application, 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



MAILED

JUL 09 2007

Technology Center 2100

Leonard Heyman
MARTINE PENILLA & GENCARELLA, LLP
710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085

In re Application of:
Andrew W. WILSON, et al.
Application No. 09/809,602
Filed: March 14, 2002
For: DEVICE DISCOVERY METHODS AND
SYSTEMS IMPLEMENTING THE SAME

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed January 9, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to either identify any issues that would require further consideration and search or the finality of the April 8th, 2005 office action should be withdrawn thus the amendment would be entered.

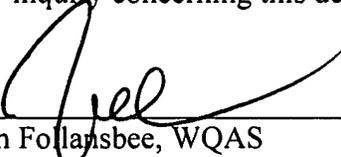
The petition is **DISMISSED AS MOOT.**

On January 9, 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 October 5, 2006. In the petition, applicant's counsel requested that the amendment filed on January 9, 2007 be entered and withdraw the final rejection.

On February 12, 2007, the finality of the October 5, 2006 office action was withdrawn, and entry of the January 9, 2007 after final amendment and allowance of the application was granted.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to John Follansbee at (571) 272-3964.



John Follansbee, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security



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SEP 20 2005

ROBYN ADAMS
PATENT DEPARTMENT
ZYMOGENETICS, INC.
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102

In re Application of :
Paul O. Sheppard et al :
Serial No.: 09/809,617 : PETITION DECISION
Filed: March 15, 2001 :
Attorney Docket No.: 98-29D1 :

This is in response to the petition under 37 CFR 1.181, filed July 5, 2005, requesting withdrawal of a Notice of Appeal.

The file history shows that the examiner mailed a Final Office action to applicants on January 12, 2005, setting a three month shortened statutory period for reply. Applicants replied on April 14, 2005 (Certificate of Mailing dated April 12, 2005), with an amendment and a Notice of Appeal and required fee therefore. The Notice of Appeal was considered a proper reply to the Final Office action and set a two month time period for submission of an Appeal Brief. Subsequent to the filing of the amendment and Notice of Appeal, the examiner mailed a Notice of Non-Compliant Amendment to applicants on May 5, 2005. The Notice set a thirty day time period for submission of a corrected amendment. Applicants filed a corrected amendment on June 2, 2005, subsequent to which a Notice of Allowability and a Notice of Allowance and Issue Fee Due were mailed to applicants on June 15, 2005.

The petition is **DENIED**. It is noted that the filing of the Notice of Appeal (the filing of which could have been delayed) stopped the time period for response to the Final Office action. Had the time period not been stopped the Notice of Non-Compliant Amendment would have required applicants to provide a corrected amendment and an extension of time of two months in order for the amendment to be considered timely (note paragraph 1 under Time Periods for Reply on the Notice). The filing of the Notice of Appeal permitted the corrected amendment to be submitted without any additional fee.

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

Bruce M. Kisliuk 
Director, Technology Center 1600



JGJR.: 07-05

Paper No: __

AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Faris, et al.	:	
Application No. 09/809,638	:	DECISION
Filing Date: 14 March, 2001	:	
Attorney Docket No.: G&C 129.35-US-01	:	

This is a decision on one of two separate petitions filed on 15 March, 2006, under 37 C.F.R. §1.183, and also appropriately considered under 37 C.F.R. §1.131.

For the reasons set forth below, the petition under 37 C.F.R. §1.183 is **DISMISSED**, and the petition as considered under 37 C.F.R. §1.131 is **DISMISSED** because the petition under 37 C.F.R. §1.183 is dismissed.

There appears to be no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

NOTES:

- (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled “Renewed Petition under 37 C.F.R. §1.47.”
- (2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- the instant application was filed in March 2001, and through prosecution Petitioner sought to provide support to overcome a rejection by the Examiner by use of a declaration under 37 C.F.R. §1.131—however, Petitioner, who, as noted above, does not appear to be of record in this matter, seeks to accomplish this task in the face of the alleged failure of co-inventor Steven Chappell Mitchell’s (Mr. Mitchell) failure to join in the declaration;
- there is no indication if or when Mr. Mitchell left the employ of the assignee, or as to the diligence of the search undertaken to ensure that the representation by Petitioner to the Office as to the proper/accurate/current/reasonably-stated-as-the-last-known residence for Mr. Mitchell.

ANALYSIS

Having failed to file a properly executed declaration, Petitioner contends that the Office should waive under 37 C.F.R. §1.183¹ the Rules of Practice without an adequate showing of diligence as to ascertaining the proper/accurate/current/reasonably-stated-as-the-last-known residence for the absent co-inventor.

While the instant petition is not filed under 37 C.F.R. §1.47, that provision of the Rules of Practice certainly suggest guidelines for addressing the matter of a non-signing inventor—including concerns as to ensuring the proper representation to the Office of diligence as to determining a proper/accurate/current/reasonably-stated-as-the-last-known residence for the

¹ The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner’s designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

absent co-inventor. proper/accurate/current/reasonably-stated-as-the-last-known residence for the absent co-inventor. (There was not even an indication that any attempt was made to contact the individual by telephone to ensure that an address is current.)

Petitioner's failure to act in compliance with statute(s) and regulation(s) creates no "extraordinary situation" requiring the invocation of the interests of justice.

The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay.²

Thus, Petitioner seeks a waiver pursuant to 37 C.F.R. §1.183³ that is at this writing neither justified nor permitted.

Accordingly, the petition under 37 C.F.R. §1.183 is **dismissed**.

Accordingly, Petitioner has made no satisfactory showing in support of a petition under 37 C.F.R. §1.47; and the petition as considered under 37 C.F.R. §1.131 is **dismissed**.

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

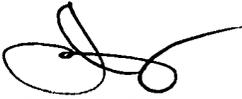
By mail: Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450
By FAX: IFW Formal Filings
 (703) 872-9306
 ATTN.: Office of Petitions

² See, Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 C.F.R. 1.193(b). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Circumstances resulting from petitioner's failure to exercise due care, or lack of knowledge of or failure to properly apply the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

³ Delay resulting from the inadvertence or mistake of Petitioner does not warrant equitable tolling of the time period of 37 C.F.R. §1.193(b). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Even assuming *arguendo*, that clerical inadvertence or error caused or contributed to the delay in filing the Reply Brief, such is not a ground for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

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

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



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

cc:
Shane M. Popp, JD, LLM
Managr/LEgal
Agensys Inc.
1545 17th St.
Santa Monica, CA 90404



AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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DEC 13 2006

OFFICE OF PETITIONS

In re Application of Faris et al. :
Application No. 09/809,638 : Decision on Petition
Filing Date: March 14, 2001 :
Attorney Docket No. 511582003500 :

This is a decision on the petitions under 37 CFR 1.47 and 37 CFR 1.183 filed September 29, 2006.

The petition under 37 CFR 1.47 is **dismissed**.

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

The petition under 37 CFR 1.47:

Petitioner filed a paper entitled, "Renewed Petition Under Rule 37 CFR §1.47 or Alternatively Under 37 CFR §1.183 Regarding Steve Chappell Mitchell."

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply.

An executed declaration was filed August 1, 2001. All the inventors, including Steve Mitchell, signed the declaration. Therefore, treatment under 37 CFR 1.47 is inappropriate.

The petitions under 37 CFR 1.183:

Petitioner has filed petitions under 37 CFR 1.183 to waive the need for the signatures of two of the inventors on the 37 CFR 1.131 declaration.

37 CFR 1.131(a) states,

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

Based on 37 CFR 1.131(a), the following parties may make an affidavit or declaration under 37 CFR 1.131 without need for a petition:

- (1) All the inventors of the subject matter claimed.
- (2) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
- (3) If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.
- (4) The owner if the affidavit or declaration is being filed for a patent under reexamination.

Petitioner is unable to supply a declaration under 37 CFR 1.131(a) signed by one of the parties listed above.

The Office has stated the signature requirements can be waived in certain circumstances.

- (1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.
- (2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable. The affidavit or declaration must show reduction to practice or conception of the invention coupled with due diligence by the non-signing inventors.

Petitioner has satisfied requirement (2) listed immediately above. In view of the efforts recounted in the petition to obtain the signature of inventors Faris and Mitchell, it is agreed that justice would be served by waiving the requirement for their signatures on the declaration under 37 CFR 1.131. Therefore, relief under 37 CFR 1.183 is appropriate and granted.

Technology Center Art Unit 1643 will be informed the petition under 37 CFR 1.183 has been granted and the declaration under 37 CFR 1.131 has been accepted, on petition, without the signatures of two of the inventors.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



Paper No. 13

DAVID S. GILBERT, JR.
110 ROCK RUN ROAD
ELIZABETH, PA 15037-2350

COPY MAILED

JAN 07 2004

OFFICE OF PETITIONS

In re Application of
David S. Gilbert
Application No. 09/809,709
Filed: March 15, 2001
Title: SLIDE LOCK WRENCH

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a)," filed December 22, 2003, which is properly considered as a petition to withdraw the holding of abandonment pursuant to § 1.181.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 13, 2002. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the action, with extensions of time obtainable pursuant to 37 CFR 1.136(a). An extension of time for response within the first month and extension fee were filed on January 8, 2003. However, no reply having been received and no additional extension of time made of record, the above-identified application became abandoned effective April 14, 2003. A Notice of Abandonment was mailed on December 15, 2003.

Petitioner promptly filed the instant petition (and petition fee under § 1.137(a)), asserting that the response was timely deposited in the "Express Mail" service of the USPS on April 9, 2003. In support thereof, petitioner submitted a copy of the response as petitioner maintains it was timely filed and a copy of the "Express Mail" mailing label used to transmit the response.

Preliminarily, petitioner is advised that pursuant to 37 CFR § 1.10(e), in order for correspondence, which was sent by the "Express Mail" service of the USPS, but was not received in the Office, to be considered timely filed by deposit in the "Express Mail" service of the United States Postal Service, "the number of the "Express Mail" mailing label must be placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail." A review of the correspondence reveals that petitioner did not write the "Express Mail" mailing label number on the relevant correspondence, and thus, he cannot rely on the provisions of 37 CFR 1.10 to establish timely filing.

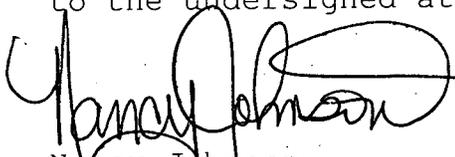
Fortunately, consideration of petitioner's evidence is unnecessary to render a decision in his favor. A review of the application file reveals that the response is present in the application file with a date of receipt of April 9, 2003 stamped thereon by the USPTO.

In view thereof, the response is considered timely filed, the Notice of Abandonment is **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

Since consideration of the petition under § 1.137(a) is unnecessary for the reasons cited, no petition fee is necessary.

The application file is being forwarded to Technology Center 3723 for consideration by the examiner of the amendment filed April 9, 2003. (Petitioner is advised that if the examiner determines that the amendment is not a proper reply to the final rejection, then the application will again be considered abandoned)

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6630799	2003-10-07	09809762	2001-03-15	500154.000003

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Margaret Anderson/	Date (YYYY-MM-DD)	2008-05-06
Name	Margaret Anderson	Registration Number	44182

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

Privacy Act Statement

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

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

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



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Commissioner for Patents
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Alexandria, VA 22313-1450
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In re Patent No. 6630799 :
Issue Date: October 7,2003 :
Application No. 09809762 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 15,2001 :
Attorney Docket No. 500154.000003 :

This is a decision on the electronic petition, filed May 6,2008 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 6,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition
and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner
should print and retain an independent copy

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



MAIL

Paper No. 4

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

JUL 11 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Linda S. Mensch :
Application No. 09/809,775 :
Filed: 3/16/2001 :
Attorney Docket No. 10501/3 :
For: WIRELESS ENTERTAINMENT SYSTEM :

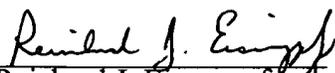
DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed June 12, 2002.

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

The request 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: China Online
900 N. Michigan Avenue, Suite 2800
Attention: Ms. Linda Mensch
Chicago, IL 60611



GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO IL 60606

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FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Linda S. Mensch :
Application No. 09/809,775 :
Filed: March 16, 2001 :
Attorney Docket No.: 10501/3 :

This is a decision on the petition filed August 5, 2005 under 37 CFR 1.137(b),¹ 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 November 16, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned February 17, 2005. Accordingly, a Notice of Abandonment was mailed May 19, 2005.

This matter is being referred to Technology Center 2614 for appropriate action on the amendment filed August 5, 2005.

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

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 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 37 CFR 1.137(c).



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P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y6
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OFFICE OF PETITIONS

In re Patent No. 6,763,155 :
Issue Date: July 13, 2004 :
Application No. 09/809,795 : **ON PETITION**
Filed: March 16, 2001 :
Patentee: Jae Dong Park, et al. :

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2004, to change the order of inventorship in the above-identified application.

The petition is **dismissed**.

Judge Schall in *Fina Technology Inc. v. Ewen*, 60 USPQ2d 1314 (CA FC 2001), stated:

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director¹ may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. Section 255 does not provide for action by a district court. Rather, the statute permits only the Director to issue a certificate of correction for a clerical error. Furthermore, the order of inventorship does not appear to be the type of mistake contemplated by §255. Examples of mistakes that fall under §255 typically include correcting a misspelled word or adding a prior art reference that was

¹ Effective March 29, 2000, the title of the head of the Patent and Trademark Office (“PTO”) was changed from “Commissioner” to “Director.” Pub. L. No. 106-113, 113 Stat.1501A-582 (1999). Although the district court and the parties refer to the head of the PTO by using the title “Commissioner,” we use the term “Director” to avoid confusion with the current statutory language.

submitted to and discussed by the examiner but inadvertently omitted by the applicant on PTO Form 1449 for listing references. *See In re Arnott*, 19 USPQ2d 1049, 1053 (Comm'r Pat. 1991). The order of inventors in the heading of a patent is taken by the PTO directly from the order in which the names appear in the original oath or declaration. Man. Pat. Exam. P., §605.04(f) (7th ed. rev. 1 2000). According to the Manual of Patent Examining Procedure, “no changes will be made [by the Director to the order of inventors] except when a petition under 37 C.F.R. 1.182 is granted.”² Id. In short, the order of inventors is not a clerical error contemplated by §255, and cannot be corrected in a judicial proceeding under that provision.

It is not problematic for district courts to lack the authority to correct the order of inventors because “the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned.” Id. As we stated in *Fina I*, “if the inventors are properly named on the patent, Fina has no concerns about invalidity of the patent over inventorship problems.” 123 F.3d at 1471, 43 USPQ2d at 1940.

In view of the above, since the order in which the names appear on the printed patent is of no consequence insofar as the legal rights of the joint applicants are concerned, and since there was no clerical error as contemplated by 35 U.S.C. § 255, the petition under 37 CFR 1.182 to change the order of inventorship in the above-identified patent must be **dismissed**. Accordingly, no certificate of correction will be issued to reflect the desired order of inventorship.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.



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

² 37 C.F.R. §1.182 (2000) concerns situations that are not specifically provided for in other regulations and authorizes the Director to decide each case that arises in accordance with the merits of the situation.



Paper No. 21

SQUIRE, SANDERS & DEMPSEY LLP
14TH FLOOR
8000 TOWERS CRESCENT DRIVE
TYSONS CORNER, VA 22182-2700

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of :
Rodrigo :
Application No. 09/809,808 :
Filed: March 16, 2001 :
Attorney Docket No. 60282.00003 :

ON PETITION

This decision concerns the December 11, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED**.

On October 24, 2002, a final Office action was mailed, setting forth a 3-month shortened statutory reply period. A proposed amendment (Amendment C) filed on April 16, 2003 along with a 3-month extension of time, as indicated in the August 22, 2003 Advisory Action, did not place the application in condition for allowance and was not entered by the Examiner. The Advisory Action pointed out that the period for responding to the October 24, 2002 final Office Action remained that set forth in that Office action.

Given that no proper reply was filed on or before April 24, 2003, the application became abandoned on April 25, 2003.

The instant petition encloses a Request for Continued Examination (RCE) as reply to the October 24, 2002 final Office Action, the \$770 RCE filing fee, and the \$1,330 petition fee; and states in essence that the entire delay in filing a proper reply to the October 24, 2002 final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition also requests to use the April 16, 2003 proposed amendment (Amendment C) as the RCE "submission" required by 37 CFR 1.114. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

The application file is being returned to Technology Center 2600 for continued examination.

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

RC Tang
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/809,809	03/16/2001	Charles R. Rogers	P-8904.00	8728
27581	7590	04/19/2006	EXAMINER LAM, ANN Y	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			ART UNIT PAPER NUMBER 1641	
DATE MAILED: 04/19/2006				

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



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

09/809,809

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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0406

DATE MAILED:

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

Commissioner for Patents

Decision on petition to correct inventorship is enclosed. The petition is granted and the patented file is being forwarded to Certificate of Corrections.

Paper No. 0406

In re Patent No.:	7,001,359	:	
Issue Date:	February 21, 2006	:	
Serial No.:	09/809,809	:	DECISION ON PETITION
Filed:	March 16, 2001	:	UNDER 37 C.F.R. § 1.324
For:	Implantable Therapeutic Substance Infusion Device with Active Longevity Projection		

This is a decision on the petition, filed January 16, 2002, to correct inventorship under 37 C.F.R. § 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.



Long V. Le
Supervisory Patent Examiner
Patent Examining Art Unit 1641

MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924



GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

In re Application of
Wang et al.
Application No. 09/809,830
Filed: March 19, 2001
Attorney Docket No. TS00-256

Paper 5
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OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 18, 2003, to revive the above-identified application. Petitioner has also requested that the \$130.00 late filing fee surcharge be refunded.

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 April 25, 2001. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 26, 2001. A Notice of Abandonment was mailed on May 16, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Petitioner contends the \$130.00 late filing fee should be refunded because the Notice of Missing Parts was issued in error. The Notice required payment of the basic filing fee, a fee for 7 total claims over 20 and the late filing fee surcharge. A review of record shows although applicant authorized the charging of deposit account 19-0033 for the appropriate filing fee and for claims over 20, there were insufficient funds to cover the fees on March 20, 2001. Accordingly, the late filing fee surcharge will not be refunded because the Notice of Missing Parts was properly issued.

The Office acknowledges receipt of the filing fee in the amount of \$750.00 and the late filing fee surcharge of \$130.00.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions



GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of
Shao-Yu Wang, et al.
Application No. 09/809,830
Filed: March 19, 2001
Attorney Docket No. TS00-256

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 11, 2004, 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 April 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:

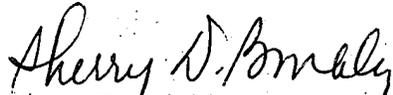
- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing 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 August 26, 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 2825 for examination in due course.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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JUN 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In Re Application:	:
<u>COX, DARRELL L.</u>	:
Appl No. 09/809853	: WITHDRAW FROM ISSUE
Filed: March 15, 2001	: FEE PAID
Title: DYNAMIC MANAGEMENT AND	:
TRANSMISSIONS OF ERROR	:
NOTIFICATION AND	:
CONFIGURATION DATA FOR	:
PRINTING AND PAPER HANDLING	:
DEVICES	:

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(1).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Edward Coles, 571-272-7402.

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

Leo Boudreau
Acting Director TC 2600
Communications

Cc: Office of Publications
Patent Clerk. – ST-08C15
Supervisory Correspondence – ST-08C15



HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of Cox :
Application No. 09/809,853 : Decision on Petition
Filing Date: March 15, 2001 :
Attorney Docket No. 10001607-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to file a timely reply to the Notice of Allowance mailed September 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 7, 2005. A Notice of Abandonment was mailed on March 7, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be informed of the instant decision and will issue the application as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 9 2005

Commissioner for Patents
United States Patent and Trademark Office
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THOMAS HOXIE
NOVARTIS CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PPLAZA 430/2
EAST HANOVER, NJ 07936-1080

In re Application of :
David J. G. White et al :
Serial No.: 09/809,862 : PETITION DECISION
Filed: March 16, 2001 :
Attorney Docket No.: 4-30439D :

This is in response to the petition under 37 CFR 1.181, filed July 7, 2005, requesting entry of a revised Appeal Brief.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on December 24, 2002, setting a three month shortened statutory period for reply, which set forth a rejection of claims 15-18, 20-21, 29 and 33-42 (the only remaining claims) for obvious double patenting over SN 08/463,826, and under 35 U.S.C. 112, first paragraph, for lack of enablement, and under 35 U.S.C. 103(a) as unpatentable over Adachi et al in view of Czarniecki et al or over Knechtle et al in view of Czarniecki et al.

Applicants filed an argument after Final Office action on March 5, 2003, addressing the rejections of record and also submitting an affidavit under 37 CFR 1.132 by David J. G. White, one of the inventors (originally filed in a prior application and dated January 30, 1998).

The examiner mailed an Advisory action to applicants on June 11, 2003, indicating entry of the argument, but that it did not place the application in condition for allowance. The action was accompanied by a 13 page discussion and rebuttal of applicants' arguments including a discussion of the White affidavit on page 9 thereof.

Applicants filed a Notice of Appeal on June 23, 2003, and filed a first Appeal Brief on December 23, 2003, with a terminal disclaimer to obviate the obvious double patenting rejection. The examiner mailed a letter of Non-Compliant Appeal Brief to applicants on March 23, 2004, indicating the only defect or non-compliant matter was that a correct copy of the claims was not included, with the error in claim 29 being pointed out.

Applicants submitted a second Appeal Brief, identical to the first Appeal Brief except for correction of the error in claim 29, on April 5, 2004. On June 29, 2004, the examiner mailed

applicants a second Notice of Defective Brief, stating that the Michler reference supplied with the Brief was a new reference and needed to be supplied in a separate paper. This reference was also appended to the first Appeal Brief.

Applicants submitted a third Appeal Brief, essentially identical to the previous Briefs on August 18, 2004, and supplied the Michler et al reference in a separate paper. The examiner mailed an Advisory action to applicants on October 29, 2004, indicating the paper with the reference would not be entered as it raised new issues and was not directed solely to new issues raised by the examiner in the Final Office action. This was followed by a third Non-Compliant Brief letter stating that the status of all amendments after the Final Office action was not set forth in the Brief and referencing the Advisory action of October 29, 2004.

Applicants filed a new Brief on December 15, 2004, amending the required section, but identical in all other respects to the previous Briefs. On April 21, 2005, the examiner mailed a fourth Non-Compliant Appeal Brief letter to applicants stating that according to M.P.E.P. 1207 a new amendment, affidavit or new evidence must be presented in a separate paper and then noting that the Brief filed 12/15/04 contained new evidence by referencing US patents 6013641, 6403555, 6214342 and 6110895 on page 9 (sic 8) of the Brief.

Applicants then filed this petition protesting the examiner's holding in the last letter of Non-compliance on July 7, 2005.

DISCUSSION

Applicants argue that the examiner is hindering or delaying the advancement of prosecution of this application through the use of Non-compliant Brief letters in which a single defect is pointed out in each one, which defects could have all been pointed to in a first Non-compliant letter. Applicants acknowledge the defect in the claims of the first Brief which was promptly corrected. The second letter noted another defect – the Michler reference – which was appended to the first Brief and could have been noted in the first letter. The third letter was to a defect which could not have been known at the time of submission of the Brief – that of the disposition of the separately supplied Michler reference. The fourth letter alluded to incorporation into the argument of certain US patents, all of which were incorporated into the argument of the first submitted Brief, as new evidence. Applicants respond that the references were supplied only to rebut the examiner's additional argument raised in the Advisory action.

Applicants correctly note that this petition is filed outside the two month time period advanced in 37 CFR 1.181(f), but request consideration of the petition on the merits. In view of the examiner's seeming "piecemeal" conduct of the prosecution since the filing of the Notice of Appeal and submission of the first Appeal Brief, the time period is waived and the petition considered timely.

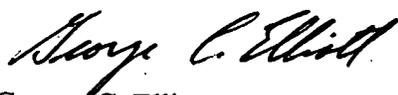
Further, the examiner's last letter of Non-compliance cannot be considered justified in view of the fact that the alleged new evidence was presented in the first Appeal Brief. Having failed to note such presentation in the first (as well as second and third) letter of Non-compliance, the examiner should be precluded from now advancing it as a defect in the Appeal Brief.

DECISION

The petition is **GRANTED**.

The Revised Appeal Brief filed December 15, 2004, is hereby entered as applicants' Appeal Brief. The examiner is directed to prepare an appropriate Examiner's Answer in reply to the Brief, or take other appropriate action.

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



George C. Elliott
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 20 2005

THOMAS HOXIE
NOVARTIS CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PPLAZA 430/2
EAST HANOVER, NJ 07936-1080

In re Application of :
David J. G. White et al :
Serial No.: 09/809,862 : PETITION DECISION
Filed: March 16, 2001 :
Attorney Docket No.: 4-30439D :

This is in response to the petition under 37 CFR 1.181, filed July 7, 2005, requesting entry of a revised Appeal Brief.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on December 24, 2002, setting a three month shortened statutory period for reply, which set forth a rejection of claims 15-18, 20-21, 29 and 33-42 (the only remaining claims) for obvious double patenting over SN 08/463,826, and under 35 U.S.C. 112, first paragraph, for lack of enablement, and under 35 U.S.C. 103(a) as unpatentable over Adachi et al in view of Czarniecki et al or over Knechtle et al in view of Czarniecki et al.

Applicants filed an argument after Final Office action on March 5, 2003, addressing the rejections of record and also submitting an affidavit under 37 CFR 1.132 by David J. G. White, one of the inventors (originally filed in a prior application and dated January 30, 1998).

The examiner mailed an Advisory action to applicants on June 11, 2003, indicating entry of the argument, but that it did not place the application in condition for allowance. The action was accompanied by a 13 page discussion and rebuttal of applicants' arguments including a discussion of the White affidavit on page 9 thereof.

Applicants filed a Notice of Appeal on June 23, 2003, and filed a first Appeal Brief on December 23, 2003, with a terminal disclaimer to obviate the obvious double patenting rejection. The examiner mailed a letter of Non-Compliant Appeal Brief to applicants on March 23, 2004, indicating the only defect or non-compliant matter was that a correct copy of the claims was not included, with the error in claim 29 being pointed out.

Applicants submitted a second Appeal Brief, identical to the first Appeal Brief except for correction of the error in claim 29, on April 5, 2004. On June 29, 2004, the examiner mailed

applicants a second Notice of Defective Brief, stating that the Michler reference supplied with the Brief was a new reference and needed to be supplied in a separate paper. This reference was also appended to the first Appeal Brief.

Applicants submitted a third Appeal Brief, essentially identical to the previous Briefs on August 18, 2004, and supplied the Michler et al reference in a separate paper. The examiner mailed an Advisory action to applicants on October 29, 2004, indicating the paper with the reference would not be entered as it raised new issues and was not directed solely to new issues raised by the examiner in the Final Office action. This was followed by a third Non-Compliant Brief letter stating that the status of all amendments after the Final Office action was not set forth in the Brief and referencing the Advisory action of October 29, 2004.

Applicants filed a new Brief on December 15, 2004, amending the required section, but identical in all other respects to the previous Briefs. On April 21, 2005, the examiner mailed a fourth Non-Compliant Appeal Brief letter to applicants stating that according to M.P.E.P. 1207 a new amendment, affidavit or new evidence must be presented in a separate paper and then noting that the Brief filed 12/15/04 contained new evidence by referencing US patents 6013641, 6403555, 6214342 and 6110895 on page 9 (sic 8) of the Brief.

Applicants then filed this petition protesting the examiner's holding in the last letter of Non-compliance on July 7, 2005.

DISCUSSION

Applicants argue that the examiner is hindering or delaying the advancement of prosecution of this application through the use of Non-compliant Brief letters in which a single defect is pointed out in each one, which defects could have all been pointed to in a first Non-compliant letter. Applicants acknowledge the defect in the claims of the first Brief which was promptly corrected. The second letter noted another defect – the Michler reference – which was appended to the first Brief and could have been noted in the first letter. The third letter was to a defect which could not have been known at the time of submission of the Brief – that of the disposition of the separately supplied Michler reference. The fourth letter alluded to incorporation into the argument of certain US patents, all of which were incorporated into the argument of the first submitted Brief, as new evidence. Applicants respond that the references were supplied only to rebut the examiner's additional argument raised in the Advisory action.

Applicants correctly note that this petition is filed outside the two month time period advanced in 37 CFR 1.181(f), but request consideration of the petition on the merits. In view of the examiner's seeming "piecemeal" conduct of the prosecution since the filing of the Notice of Appeal and submission of the first Appeal Brief, the time period is waived and the petition considered timely.

Further, the examiner's last letter of Non-compliance cannot be considered justified in view of the fact that the alleged new evidence was presented in the first Appeal Brief. Having failed to note such presentation in the first (as well as second and third) letter of Non-compliance, the examiner should be precluded from now advancing it as a defect in the Appeal Brief.

DECISION

The petition is **GRANTED**.

The Revised Appeal Brief filed December 15, 2004, is hereby entered as applicants' Appeal Brief. The examiner is directed to prepare an appropriate Examiner's Answer in reply to the Brief, or take other appropriate action.

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



George C. Elliott
Director, Technology Center 1600



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GREGORY J. KOERNER
REDWOOD PATENT LAW
1291 EAST HILLSDALE BOULEVARD
SUITE 205
FOSTER CITY, CA 94404

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APR 04 2007

OFFICE OF PETITIONS

In re Application of
Neal Margulis
Application No. 09/809,868
Filed: March 15, 2001
Attorney Docket No. PA1589US

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**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 November 26, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Gregory J. Koerner of Redwood Patent Law has been revoked by the assignee of the patent application on January 4, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FENWICK & WEST, LLP
275 BALLERY STREET
SUITE 1600
SAN FRANCISCO, CA 94111



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/809,868	03/15/2001	Neal Margulis	PA1589US

24272
 Gregory J. Koerner
 Redwood Patent Law
 1291 East Hillsdale Boulevard
 Suite 205
 Foster City, CA 94404

CONFIRMATION NO. 8292

OC000000023169679

OC000000023169679

Date Mailed: 03/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/04/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M. Gause

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY



FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of :
Neal Margulis :
Application No. 09/809,868 :
Filed: March 15, 2001 :
Attorney Docket No. PA1589US :
: **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 December 15, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fenwick & West, LLP has been revoked by the assignee of the patent application on March 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: INGRASSIA FISHER & LORENZ, PC
ATTN: BRETT A. CARLSON
7150 E. CAMELBACK ROAD
SUITE 325
SCOTTSDALE, AZ 85251



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

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
John L. Margrave, et. al. :
Application No. 09/809,885 : **ON PETITION**
Filed: March 16, 2001 :
Attorney Docket No. 21753-013003 :

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

The above application became abandoned for failure to file a proper reply to the final Office action mailed April 10, 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.

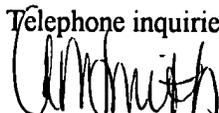
The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the \$790 filing fee and an amendment; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Change of Correspondence Address filed December 11, 2006 has been made of record.

The application file is being referred to Technology Center Art Unit 1754.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/09

TO SPE OF : ART UNIT 1793 (1700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/809,885 Patent No.: 7,527,780

Attn: Stuart Hendrickson

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

Approved

All changes apply.

Approved in Part

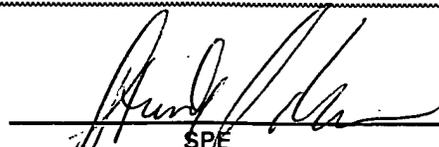
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: no major changes.

SLH


SPE

Art Unit 1793



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

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JUN 1 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Noriaki Sakamoto et al :
Application No. 09/809,917 :
Filed: March 16, 2001 :
Attorney Docket No. 10417-061001 :

This is a decision on the petition, filed June 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 28, 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.

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

The file will be forwarded to Technology Center AU 2822 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).



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

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OFFICE OF PETITIONS

In re Application of :
Mamoru Higuchi :
Application No. 09/809,919 :
Filed: March 16, 2001 :
Attorney Docket No. FUSA 18,465 :

ON PETITION

This is a decision on the petition filed October 21, 2005 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 August 30, 2005 for failure to timely pay the issue fee on or before August 29, 2005. Accordingly, a Notice of Abandonment was mailed October 13, 2005.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 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 37 CFR 1.137(c)).



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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
David M. Payne :
Application No. 09/809,927 :
Filed: March 15, 2001 :
Attorney Docket No. 10992664-1 :

ON PETITION

This is a decision in response to a petition, filed August 13, 2007, which, for the reasons stated below, is being treated as a request for a further two (2) month extension of time.

The request for a three-month extension of time is **GRANTED**.

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

The record shows that a final Office action was mailed on January 25, 2006, which set a three-month shortened statutory period for reply. Accordingly, a reply was due on or before April 25, 2006, or on or before July 25, 2006 with the submission of a proper response and an extension of time fee pursuant to 37 CFR 1.136(a). It is noted that Advisory actions were mailed June 5, 2006 and June 21, 2006, respectively. On June 27, 2006, a response was filed. Thereafter, on July 11, 2007, a Notice of Abandonment was mailed. It is noted that the Notice of Abandonment was premature in view of the response filed June 27, 2006 including a 1-month extension of time and a general authorization to charge fees to counsel's deposit account. Since petitioner may obtain an extension of time up to an including June 27, 2006, this case was not, in fact, abandoned.

In view of the response filed June 27, 2006, a further 2-month extension of time will be charged to counsel's deposit account as authorized.

The Notice of Abandonment mailed July 11, 2007, is hereby **vacated** and the abandonment is **withdrawn**.

For the record, the petition filed August 13, 2007 is dismissed as moot.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2625 for appropriate action in the normal course of business on the reply received June 27, 2006.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEVEN ORMISTON
ORMISTON AND MCKINNEY PLLC
P O BOX 298
BOISE, ID 83701



Paper No. 6

Alan H. Thompson
Assistant Laboratory Counsel
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore, CA 94551

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MAY 12 2003

In re Application of	:	OFFICE OF PETITIONS
Brewer et al.	:	
Application No. 09/809,944	:	DECISION ON
Filed: March 14, 2001	:	PETITION
Attorney Docket Number: IL-10650	:	

This is a decision on the Petition to revive the above-identified application under 37 CFR 1.137(b), filed April 5, 2003.

This Petition is hereby **granted**.

Background

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed January 10, 2002. The Notice required substitute drawings in compliance with 37 CFR 1.84. The two-month period for reply was non-statutory, and extensions of time were available under 37 CFR 1.136(a).

The Instant Petition

With the instant petition, Petitioner has submitted drawings in compliance with 37 CFR 1.84. Accordingly, the petition is granted.

This application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions



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ALAN H. THOMPSON
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808 L-703
LIVERMORE CA 94551

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Laurence R. Brewer :
Application No. 09/809,944 : DECISION GRANTING PETITION
Filed: March 14, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. IL-10650 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 5, 2005, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$510 extension of time submitted with the petition on July 6, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1641.


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



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ALAN H. THOMPSON
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808, L-703
LIVERMORE CA 94551

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Laurence R. Brewer et al :
Application No. 09/809,944 : DECISION GRANTING PETITION
Filed: March 14, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. IL-10650 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 13, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1641.


Karen Creasy
Petitions Examiner
Office of Petitions



Garth Janke
BIRDWELL, JANKE & DURANDO, PLC
Suite 1925
900 SW Fifth Avenue
Portland, OR 97204

FEB 7 2002

In re Application of)
STRUSE et al.)
Application No. 09/809,966)
Filed: March 16, 2001)
For: Method for Locating and Inspecting Underground)
or Other Non-Visible Non-Electrically Conductive Pipes)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 10, 2001, to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item VIII: Accelerated Examination.

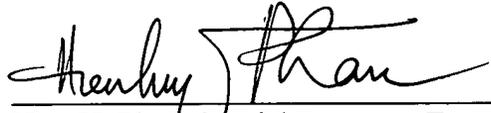
Regarding the petition to make special, a grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item VIII, must include (A) the fee set forth in 37 CFR 1.17(i), (B) claims limited to a single invention, (C) a statement that a pre-examination search was made, (D) one copy each of the references deemed most closely related to the subject matter encompassed by the claims, and (E) a detailed discussion of the references pointing out how the claimed subject matter is patentable over the references.

The petition includes items (A), (C), (D) and (E). However, regarding item (B), the petition should include a statement by the petitioner that the claims are directed to a single invention. Regarding item (C), the submitted statement that a pre-examination was made does not include a listing of the field of search by class and subclass. Regarding item (E), the submitted discussion of the references does not point out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references. The discussion merely states that certain disclosed features of the references are not being claimed. The discussion does not make clear what subject matter is being claimed and why the references do not disclose, teach or suggest the claimed subject matter.

Accordingly, the petition is **DISMISSED**.

Should petitioner desire reconsideration, he/she should supplement this petition by correcting the above-noted deficiencies. No further petition fee is required. Any request for reconsideration

must be filed within **TWO MONTHS** of the date of this decision.

A handwritten signature in black ink, appearing to read "Hien H. Phan". The signature is written in a cursive style with a large, stylized initial "H".

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

HP/JC



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

DAVID AKER
23 SOUTHERN ROAD
HARTSDALE, NY 10530

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OCT 06 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Edith Stern et al. :
Application No. 09/810,015 :
Filed: March 16, 2001 :
Attorney Docket No. YOR920010265 :

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

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 30, 2001, which set a shortened statutory 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 have been obtained. Accordingly, the application became abandoned on June 31, 2001.

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

The application file is being forwarded to Technology Center AU 2632 for further processing.

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



JGJR.: 03-05

Paper No: __

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OFFICE OF PETITIONS

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

In re Application of
Sakamoto, et al. :
Application No. 09/810,141 :
Filing Date: 16 March, 2001 :
Attorney Docket No. 10417-060001 :

This is a decision on the petition filed on 28 January, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a), and, in light of the allegations considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a “Notice of Allowance and Feed Due” mailed on 16 September, 2004; with reply due under a non-extendable deadline on or before 16 December, 2004;
- the application went abandoned after midnight 16 December, 2004;
- the Office mailed the Notice of Abandonment on 20 January, 2005;

- on 31 January, 2005, Petitioner filed the instant petition, with fee, and since has supplemented with authorization to pay the Issue and Publication Fees) as his reply, and stated as his showing therein (with a declaration and supporting documents such as office records) that the Notice of Allowance was not received.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

¹ 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁷

Petitioner evidences non-receipt of the Notice of Allowance.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, and the 20 January, 2005, Notice of Abandonment hereby is vacated; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**, and the petition fee (\$500.00) is waived and has not been charged, and the Issue and Publication Fees are charged to Deposit Account 06-1050, as authorized.

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



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

⁷ See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).



JGJR.: 03-05

Paper No: ___

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NEW YORK NY 10022-4611

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OFFICE OF PETITIONS

In re Application of	:	
Sakamoto, et al.	:	DECISION
Application No. 09/810,141	:	
Filing Date: 16 March, 2001	:	
Attorney Docket No. 10417-060001	:	

This is a revised decision on the petition filed on 28 January, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a), and, in light of the allegations considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below:

- the decision of 11 March, 2005, hereby is **VACATED**;
- the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and
- the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

- (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

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

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a "Notice of Allowance and Fee Due"—with drawings requirements—mailed on 16 September, 2004, with reply due under a non-extendable deadline on or before 16 December, 2004;
- the application went abandoned after midnight 16 December, 2004;
- the Office mailed the Notice of Abandonment on 20 January, 2005;
- on 31 January, 2005, Petitioner filed the instant petition, with fee, and since has supplemented with authorization to pay the Issue and Publication Fees as his reply, but no drawings as required, and stated as his showing therein that the Notice of Allowance was not received, however, as noted below, Petitioner has not satisfied the strict construction of the requirements set out at MPEP §711.03(c).

Copies of the Notice of Allowance and Notice of Allowability are included with this decision.

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding

¹ 35 U.S.C. §133 provides:

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

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

Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.²

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁷

The commentary at MPEP §711.03(c) provides:

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to

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

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

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

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

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

⁷ See: *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

Petitioner has not satisfied the requirements described (and highlighted) above.

As to Allegations
of Unavoidable Delay

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

Petitioner has failed to satisfy the “showing” and “reply” requirements as to a petition under 37 C.F.R. §1.137(a).

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; further, the petition under 37 C.F.R. §1.137(a) must be **dismissed**, because Petitioner has failed to satisfy the reply requirement under the regulation. The petition fee (\$500.00) is now charged to Deposit Account 06-1050, as authorized; the Issue and Publication Fees previously were charged.

Further correspondence with respect to this matter should be addressed as follows:⁸

By mail: Commissioner for Patents⁹
 P.O. Box 1450
 Alexandria, VA 22313-1450

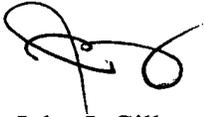
By FAX: IFW Formal Filings
 (571) 273-8300
 ATTN.: Office of Petitions

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

⁸ On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information, see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

⁹ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

A handwritten signature in black ink, appearing to read "John J. Gillon, Jr.", with a stylized flourish at the end.

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

Encl.: Notice of Allowability, Notice of Allowance



JGIR.: 10-05

Paper No: ___

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OCT 05 2005

OFFICE OF PETITIONS

In re Application of	:	
Sakamoto, et al.	:	DECISION
Application No. 09/810,141	:	
Filing Date: 16 March, 2001	:	
Attorney Docket No. 10417-060001	:	

This is a revised decision on the petition filed on 14 September, 2005, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a “Notice of Allowance and Fee Due”—with drawings requirements—mailed on 16 September, 2004, with reply due under a non-extendable deadline on or before 16 December, 2004;
- the application went abandoned after midnight 16 December, 2004;
- the Office mailed the Notice of Abandonment on 20 January, 2005;
- on 31 January, 2005, Petitioner filed the original petition, with fee, and thereafter supplemented with authorization to pay the Issue and Publication Fees as his reply, but

provided no drawings as required, and stated as his showing therein that the Notice of Allowance was not received, however, as noted below, Petitioner has not satisfied the strict construction of the requirements set out at MPEP §711.03(c), and thus the petition was dismissed on 2 September, 2005;

- the instant petition is styled alternatively as one alleging unintentional delay under 37 C.F.R. §1.137(b) or unavoidable delay under 37 C.F.R. §1.137(a), however, it is noted here that Petitioner submits drawings as the reply and makes the statement of unintentional delay but no additional (i.e., documentary) showing as to unavoidable delay or showing/statement (as to a review of the entire file) in support of a request to withdraw the holding of abandonment under 37 C.F.R. §1.181. (See: The Manual of Patent Examining Procedure (MPEP) §711.03(c) for a discussion of the strict showing requirements.¹)

STATUTES, REGULATIONS AND ANALYSIS

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

¹ The commentary at MPEP §711.03(c) provides:

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

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵ And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

As to Allegations of Unavoidable Delay

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

² 35 U.S.C. §133 provides:

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

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

³ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁴ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

⁵ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁶ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 *Off. Gaz. Pat. Office* 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 *Off. Gaz. Pat. Office supra*.

⁷ 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.

While he has pleaded the matter under this provision, Petitioner has made no further showing to satisfy the requirements as to a petition under 37 C.F.R. §1.137(a).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment,⁸ and the Office has set forth in detail how a Petitioner is to satisfy the showing requirement connected with such a request. As discussed above, while he made allegations in this regard, Petitioner has not made the statement/showing required to address this matter as set forth in the MPEP.

As to Allegations
of Unintentional Delay

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

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

No further request to withdraw the holding of abandonment has been considered herein for the reasons set forth above.

Moreover, while an allegation of unavoidable delay was indicated, because no further showing was made by Petitioner no petition alleging unavoidable has been reconsidered at this writing.

The petition under 37 C.F.R. §1.137(b) is **granted**, and the petition fee (\$1,500.00) is now charged to Deposit Account 06-1050, as authorized; the Issue and Publication Fees previously were charged.

The application is released to Publications Branch to be processed into a patent.

⁸ See: Delgar v. Schulver, 172 USPQ 513 (D.D.C. 1971).

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

A handwritten signature in black ink, appearing to read "John J. Gillon, Jr.", with a stylized flourish at the end.

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



SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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MAY 09 2006

OFFICE OF PETITIONS

In re Application of Leventer et al. :
Application No. 09/810,154 :
Filing Date: March 15, 2001 :
Attorney Docket No. 40005079-0005-002 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 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 Notice to File Corrected Application Papers mailed November 23, 2005, which set a shortened statutory period for reply of thirty (30) days. The above-identified application became abandoned on December 23, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will take steps to prepare the application for issuance as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 04/26/2010

Applicant : Amir Leventer : DECISION ON REQUEST FOR
Patent Number : 7068716 : RECALCULATION of PATENT
Issue Date : 06/27/2006 : TERM ADJUSTMENT IN VIEW
Application No : 09/810,154 : OF WYETH
Filed : 03/15/2001 :
:
:

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
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Carrier Blackman and Associates
24101 Novi Road
Suite 100
Novi, MI 48375

COPY MAILED

APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Sumio Kawano, et al. :
Application No. 09/810,278 : **ON PETITION**
Filed: March 16, 2001 :
Attorney Docket No. KNI-148-A :

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

The petition is **GRANTED**.

A final Office action was mailed to applicant on November 14, 2002, which set a 3 (three) month shortened statutory period for reply. Applicant filed an amendment on February 7, 2003, but the amendment did not place the application in condition for allowance. Since an acceptable reply was not received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on February 15, 2003.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114. Receipt of the RCE is acknowledged.

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

The application file is being referred to Technology Center 2800 for processing the RCE filed with the instant petition.

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



PAPER NO.

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

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MAR 18 2005

OFFICE OF PETITIONS

In re Patent No. 6,767,370 : LETTER REGARDING
Rolf Espe : PATENT TERM ADJUSTMENT
Issue Date: May 18, 2004 : and
Application No. 09/810,283 : NOTICE OF INTENT TO ISSUE
Filed: March 16, 2001 : CERTIFICATE OF CORRECTION
Attorney Docket No. 3985 :

This is in response to the "REQUEST FOR REVIEW OF PTA DETERMINATION," filed June 21, 2004, pursuant to patentee's duty of candor and good faith to the Office. Patentee states that the Patent Term Adjustment of 18 days shown in the above-identified patent may be incorrect.

The request for reconsideration of the patent term adjustment indicated in the patent is **granted** to the extent indicated herein.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 18, 2004, the application matured into U.S. Patent No. 6,737,370, with a revised patent term adjustment of 18 days. On June 21, 2004 (certificate of mailing June 17, 2004), patentee submitted this request for reconsideration of patent term adjustment. Patentee discloses that no PTO delay should have arisen from the final Office action until the notice of allowance in view of the intervening Advisory Action which may have triggered a reduction. In addition, patent requests reconsideration of the reductions of 27 and 58 days for the filing of an Information Disclosure Statement on March 31, 2003 and a Statement of Substance of Interview on December 10, 2003. Patentee does not submit the required fee under § 1.18(e) for reconsideration of PTA.

**Patentee's disclosure pursuant to
their duty of candor and good faith**

In regards to the period of adjustment of 4 days associated with the Office's mailing of the notice of allowance, patentee advises

the Office of an error in their favor. A review of the application history confirms that a period of adjustment of 4 days should not have been entered for Office delay in taking action in response to applicant's amendment after final filed July 21, 2003. In fact, the Office took action within 4 months mailing an advisory action on August 27, 2003.

More importantly, as the amendment filed July 21, 2003 was not in compliance with § 1.113(c)¹, the period for reply to the final rejection mailed May 21, 2003, continued to run. A proper amendment was not received in the Office until November 12, 2003. (An amendment filed September 12, 2003 was non-compliant). Accordingly, pursuant to § 1.704(b), the patent term adjustment should have been further reduced by 83 days for applicant delay from August 22, 2003 to November 12, 2003 in filing a proper reply to the final rejection.

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

**Patentee's dispute of the patent term adjustment
at the time of the mailing of the notice of allowance**

In regards to the reduction of 27 days for the filing of an IDS on March 31, 2003, this request for reconsideration is untimely. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On November 25, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 179 days. This initial determination of patent term adjustment included calculation of the reduction of 27 days. PALM records indicate that the issue fee payment was received in the Office on February 6, 2004. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended February 6, 2004. Accordingly, to the extent the instant application requests reconsideration of the 27 day reduction, it is appropriate to dismiss this petition as untimely filed.

¹ See Advisory Action mailed August 27, 2003.

**Patentee's dispute of the
revised patent term adjustment indicated in the patent**

In regards to the reduction of 58 days for the filing after the mailing of the notice of allowance of a Statement of Substance of Interview on December 10, 2003, patentee is advised that 37 CFR § 1.705(d) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated on the patent based on a dispute of the Office's calculation of the patent term adjustment. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within thirty days of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." As the instant request for review of the patent term adjustment was filed within thirty days of the issue date of the patent, the request may be treated as timely filed under § 1.705(d). However, patentee did not submit the required fee under § 1.18(e).

If patentee wishes the Office to consider the request for correction of PTA under the provisions of 37 C.F.R. § 1.705(d), patentee must so advise the Office and clearly authorize payment of the required fee within the time period for response set forth in this decision.

CONCLUSION

In view thereof, the patent should have issued with a revised patent term adjustment of 0 days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0)** days.

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

*Karin Ferriter
for*

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

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 8

Fish & Neave
1251 Avenue of the Americas
New York, NY 10020-1105

In re Application of:
Akli ADJAOUTE
Application No. 09/810,313
Filed: March 15, 2001
For: SYSTEMS AND METHODS FOR
DYNAMIC DETECTION AND
PREVENTION OF ELECTRONIC FRAUD
AND NETWORK INTRUSION

MAILED

JUN 02 2004

Technology Center 2100

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 11, 2004.

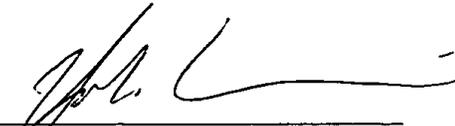
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that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

The request is **GRANTED**.

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

Serial No.: 09/810,313
Decision on Petition

- 2 -



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

cc: Akli Adjaoute
Chief Executive Officer
Brighterion, Inc.
353 Kearny Street, 5th Floor
San Francisco, CA 94108



SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of Spira, Niedermayr, Menden,
Klemme-Wolf, Sommer, Cavanagh, Pfeifer,
Williams, Wilcox, Zancolich, Goly, Stubiger,
Tautrim and Taylor
Application No. 09/810,351
Filed: March 16, 2001
Attorney Docket No. P00,1820
Title: Method of Providing Maintenance
Services

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed December 3, 2001.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Cavanagh has refused to join in the filing of the above-identified application after having been presented with the application papers. The declaration attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing 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.

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

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a long horizontal stroke at the end.

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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Perry Michael Cavanagh
16 Templeby Crescent NE
Calgary, Alberta T1Y5G4
Canada

COPY MAILED

MAY 11 2007

In re Application of Spira, Niedermayr,
Menden, Klemme-Wolf, Sommer, Cavanagh,
Pfeifer, Williams, Wilcox, Zancolich, Goly,
Stubiger, Tautrim and Taylor :
Application No. 09/810,351 :
Filed: March 16, 2001 :
Attorney Docket No. P00,1820 :
Title: Method of Providing Maintenance :
Services :

LETTER

OFFICE OF PETITIONS

Dear Mr. Cavanagh :

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (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 (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473
ATTN: Melvin Robinson



Paper No. 8

Richard O. Bartz
Suite 350
6750 France Avenue South
Edina MN 55435

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OCT 24 2002

In re Application of
John Mueller
Application No. 09/810,355
Filed: March 19, 2001
Attorney Docket No. M304.12.1

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under 37 CFR 1.137(a), filed October 3, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed September 10, 2001, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was received by the Office on January 7, 2002, but the request for an extension of time was not received until February 15, 2002, with a certificate of mailing dated January 23, 2002. Petitioner was, therefore, in need of an extension of time within the second month to make the January 7, 2002, filing timely. No authorization to charge a deposit account for any outstanding amounts was found in the application file. The application, therefore became abandoned on January 11, 2002. A Notice of Abandonment was mailed on April 17, 2002.

A grantable petition under 37 CFR 1.137(a)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (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 required by 37 CFR 1.137(c).

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the

¹As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² 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.

Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”³

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”⁴

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁵

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgement for that of the agency.”⁶

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁷

The general question asked by the Office is: “Did petitioner act as a reasonable and prudent

³Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’ interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)

⁴Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

⁵Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

⁶Rav v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁷Id.

person in relation to his most important business?"⁸ Nonawareness of a PTO rule will not constitute unavoidable delay.⁹

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the response to the non-final Office action, though mailed October 24, 2002, was not received until January 2002. It is assumed that petitioner is alleging that this was undue delay in receipt of the amendment. Although this may constitute undue delay, it does not constitute unavoidable delay. The reason petitioner's argument must necessarily fail is addressed below.

In the normal course, correspondence will be accorded a filing date as of the date received by the Office. Where, as in this case, it is alleged that a filing was received long after it was mailed the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow the filing to be accorded a filing date as of the date originally mailed, transmitted, or deposited, respectively, rather than the date the filing is ultimately received by the Office. The certificate of mailing and transmission procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed or transmitted rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allows correspondence deposited with the United States Postal Service "Express Mail" service pursuant to 37 CFR 1.10 to be accorded a filing date as of the "date-in" shown on the "Express Mail" label rather than the date the filing was received by the Office.

A review of the application file did not reveal a certificate of mailing for the amendment filed January 7, 2002, though it appears that petitioner was aware of the certificate of mailing procedures because a certificate of mailing accompanied the request for extension of time filed February 15, 2002. It may be concluded, therefore, that petitioner's failure to file the reply in compliance with 37 CFR 1.8 and/or 1.10 implies imprudence in the prosecution of the application which defeats petitioner's claim that the delay in filing the required reply was unavoidable.

Petitioner is advised that a successful petition under 37 CFR 1.137(a) must demonstrate that the entire delay in filing the required reply from the due date for reply until the filing of a grantable petition was unavoidable. Petitioner did not establish that the six month delay in filing the instant petition was unavoidable. In any renewed petition filed, petitioner must establish that the entire period of delay was unavoidable--including any further undue delay in filing a renewed petition.

⁸See *In re Mattulah*, 38 App. D.C. 497 (D.C. Cir. 1912).

⁹See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

In the alternative, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee (\$1,280.00 for a large entity and \$640.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form PTO/SB/64 is enclosed for petitioner's convenience.

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

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

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

By hand: Office of Petitions
 2201 South Clarke Place
 Crystal Plaza 4, Suite 3C23
 Arlington, Virginia 22202

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

Enclosure: PTO/SB/64



Paper No. 10

Richard O. Bartz
Suite 350
6750 France Avenue South
Edina, MN 55435

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NOV 25 2002

OFFICE OF PETITIONS

In re Application of
John Mueller
Application No. 09/810,355
Filed: March 19, 2001
Attorney Docket No. M304.12.1

:
:
:
:

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed September 10, 2001, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was received by the Office on January 7, 2002, but the request for an extension of time was not received until February 15, 2002, with a certificate of mailing dated January 23, 2002. Petitioner was, therefore, in need of an extension of time within the second month to make the January 7, 2002, filing timely. No authorization to charge a deposit account for any outstanding amounts was found in the application file. The application, therefore became abandoned on January 11, 2002. A Notice of Abandonment was mailed on April 17, 2002.

The application is being forwarded to Technology Center 3700 for review of the amendment filed on January 7, 2002.

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

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



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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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SEP 29 2008

In re Application of	:	
LONG, et al.	:	
Application No. 09/810,422	:	DECISION ON PETITION TO
Filed: March 15, 2001	:	WITHDRAW FROM RECORD
Attorney Docket No. 21676-05108	:	
	:	

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 30, 2008.

The request is NOT APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 the requesting attorney's registration number was omitted from the request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.


 Monica A. Graves
 Petitions Examiner
 Office of Petitions

cc: IKANOS COMMUNICATIONS, INC.
47669 FREMONT BOULEVARD
FREMONT, CA 94538



George Stevens
Armstrong, Kratz, Quintos, Hanson & Brooks, LLP
1725 K Street, NW, Suite 1000
Washington, D.C. 20006

MAILED

FEB 21 2007

Technology Center 2100

In re Application of:
Tsutomu Matsumoto, et al.
Application No. 09/810,437
Filed: March 19, 2001
For: Card Settlement Method and System using
Mobile Information Terminal

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed January 27, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed December 30, 2005.

The petition is **DISMISSED AS MOOT.**

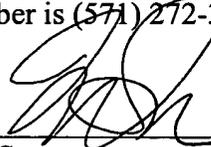
On January 27, 2006, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed December 30, 2005. In the petition, applicant's counsel alleged that the rejection of claims 7-8, 9/7, 10/7, 16/8, 12, 17/8, 16/(8,12) and 17/(8, 12) under 35 U.S.C. § 103 was introduced for the very first time on unamended claims; thus rendering the Final Office action premature.

On 8 February 2006, a non final office action was mailed out indicating that the finality of the December 30, 2005 action is withdrawn.

Accordingly, the petition is **DISMISSED AS MOOT.**

The status of the application is awaiting the examiner's response to the November 27, 2006 request for continued examination.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.



Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security



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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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of :
Matsumoto et al. :
Application No. 09/810,437 : **DECISION ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No. 010369 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2135 for further examination on the merits.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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

MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Atsushi Tomita :
Application No.: 09/810,489 :
Filed: March 19, 2001 :
Attorney Docket No.: 032360-010 :

ON PETITION

This is a decision on the petition, filed March 10, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Jonathan R. Bowser appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Bowser desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Bowser, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 10, 2009, 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.

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.

The application is being referred to Technology Center AU 2457 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



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Platon N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

Mail Date: 04/21/2010

Applicant	: Atsushi Tomita	: DECISION ON REQUEST FOR
Patent Number	: 7653717	: RECALCULATION OF PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/810,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,592	03/16/2001	Hack Alexander	30815/23369	8164

4743 7590 10/02/2009
MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

EXAMINER

MANAHAN, TODD E

ART UNIT PAPER NUMBER

3732

MAIL DATE DELIVERY MODE

10/02/2009

PAPER

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606-6357

In re Application of :
Hack Alexander :
Serial No.: 09/810,592 : PETITION DECISION
Filed: March 3, 2001 :
Attorney Docket No.: 27392/23369 :

Pursuing on Renewed Petition under 1.182 to Correct Errors in Order of Inventor's Name filed on December 30, 2008 and the Request for Certificate of Correction Pursuant to 37 CFR 1.324 filed on December 30, 2008, where applicant requests the patentee or inventive entity on the first page should be changed since the order of the inventor's name is reversed. Applicant has provided a signed request and the required fee under 37 CFR 1.20(b).

A review of the application record indicates that the petition meets all the requirements for acceptance of Correction of Inventorship.

The petition is **GRANTED**.

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

Henry Yuen
SPRE TC 3700
(571) 272-4856
(571) 273-4856 fax

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,561,802
Patented: May 13, 2003

On petition requesting issuance of a certificate for correction on inventorship pursuant to 35 U.S.C. 1.324 and 1.182, 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:

Alexander Hack
Biberach-Rissegg, Germany


Henry Yuen
SPRE TC 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: September 28, 2009
TO: Certificates of Correction Branch
FROM: Henry Yuen
SPRE TC 3700
SUBJECT: REQUEST OF CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U.S. Letters Patent No. 6,561,802 as specified on the attached Certificate.

A handwritten signature in black ink, appearing to be "HY", with a long horizontal flourish extending to the right.

Henry Yuen
SPRE TC 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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**OFFICE OF PETITIONS
A/C PATENTS**

DECISION ON PETITION

ROBERT E. BUSHNELL
1522 K STREET, N.W. SUITE 300
WASHINGTON, DC 20005-1202

In re Application of
Lee, et al.
Application No. 09/810,606
Filed: March 19, 2001
Attorney Docket No. P56272

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:
:
:
:
:

This is a decision on the petition filed on May 7, 2001, under 37 CFR 1.181, requesting the Office to correctly examine the formal drawings originally filed in the above-identified application.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on March 19, 2001. On April 24, 2001, the Initial Patent Examination Division mailed applicant a "Notice to File Corrected Application Papers - Filing Date Granted." Applicant was required to send substitute drawings in compliance with §1.84 within two months of the mail date of the Notice to avoid abandonment.

In reply, applicant timely filed the instant petition arguing that none of the four sheets of the originally filed drawings violates 37 CFR 1.84(g). Prior to a decision being issued on this petition, on May 15, 2001, the Initial Patent Examination Division mailed applicant a "Withdrawal of Previously Sent Notice." Applicant was thereby informed that the Notice mailed April 24, 2001, was mailed in error and should be disregarded. Furthermore, the application was considered complete and would be processed for examination.

Given the circumstances of this petition, no petition fee is required.

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

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

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

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of
TORNABENE, et al.
Application No. 09/810,625
Filed: March 19, 2001
Attorney Docket No. **06975-114001**

:
:
: 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 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott R. Boalick. Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

There is an outstanding Office action mailed July 27, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.


Monica A. Graves
Petitions Examiner
Office of Petitions



FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

**PROCESSED BY
PG PUB DIVISION**

JUN 18 2002

Applicant: Jean-Christophe Henrion et al.

Appl. No.: 09/810,628

Filing Date: March 19, 2001

Title: COSMETIC COMPOSITION COMPRISING AT LEAST ONE INGREDIENT CHOSEN FROM COMPOUNDS OF FORMULA (I) AND SALTS THEREOF, USE THEREOF AS COLOURING AGENT, AND NOVEL COMPOUNDS OF FORMULAE (IIa), (IIIa), (IVa), (Va), AND (VIa), AND SALTS THEREOF COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE POLYVINYL ALCOHOL, AND PROCESSES FOR PREPARING SAID COMPOSITIONS

Attorney Docket No.: 05725.0868

Pub. No.: US 2002/0012683 A1

Pub. Date: January 31, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 29, 2002 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

(a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request includes mistakes that are not the fault of the Office, which will not be corrected by a corrected publication made by the Office:

Error no. 3, applicant states that the published application recites "R₃₃", "R₃₄", and "R₃₅", where it should recite "R33", "R34", and "R35". Page 15 of the application as originally filed shows "R₃₃", "R₃₄", and "R₃₅".

Error no. 20, applicant states that the published application omits the "-" between "1" and "b", however page 32 of the application as originally filed omits the "-" between "1" and "b".

Error no. 29, applicant states that claim 25, line 1 of the published application recites "for body skin lips or" where it should recite "for body, skin, lips, or", however page 61 of the application

as originally filed recites "for body skin lips or".

Error no. 30, applicant states that claim 27, lines 4 to 5 of the published application recites "a face power, an eyeshadow, a free powder, a compact power," where it should recite "a face powder, an eyeshadow, a free powder, a compact powder," however the application as originally filed recites "a face power, an eyeshadow, a free powder, a compact power,".

Error no. 32, applicant states that in formula (VIa) of claim 45 the published application recites "R₃₃", "R₃₄", and "R₃₅", where it should recite "R33", "R34", and "R35", however the application as originally filed shows "R₃₃", "R₃₄", and "R₃₅".

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be addressed as follows:

By mail to: Box PG PUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

REVIEW OF FACTS

1. U.S. Patent No. 5,216,135 issued to Urano, et al., on June 1, 1993.
2. A request for reexamination of the '135 patent was filed by a third party requester on October 23, 1997, and the resulting reexamination proceeding was assigned Control No. 90/004,812. On December 11, 1997, reexamination was ordered in the '4812 proceeding.
3. A final rejection was mailed in the '4812 proceeding on September 22, 1998, in which claims 1-6 were rejected and claim 7 was indicated to be patentable. A response to the final rejection, accompanied by a notice of appeal, was filed on December 10, 1998, in the '4812 proceeding.
4. The Board of Patent Appeals and Interferences affirmed the rejection of claims 1-6 in the '4812 proceeding on September 24, 1999.
5. Patent owner appealed to the Court of Appeals for the Federal Circuit in the '4812 proceeding on November 19, 1999.
6. The Court of Appeals for the Federal Circuit affirmed the rejection of claims 1-6 in the '4812 proceeding on February 1, 2001.
7. On March 15, 2001, patent owner filed a reissue application which was assigned Application No. 09/810,650.
8. On March 16, 2001, patent owner filed a petition for panel rehearing and for rehearing *en banc* in the '4812 proceeding.
9. On May 8, 2001, an order denying both of the petitions for rehearing was filed in the '4812 proceeding.
10. The mandate of the Court issued on May 15, 2001, in the '4812 proceeding.
11. Notice of the filing of the reissue application was published in the *Official Gazette* on August 7, 2001.
12. A petition to correct the filing receipt was filed in the reissue application on October 2, 2001.

DISCUSSION REGARDING MERGER

Under 37 C.F.R. § 1.565(d):

(d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to stay one of the two proceedings....

As evidenced by the above review of facts, the reissue application and the reexamination proceeding are currently pending. Since the Order has been mailed pursuant to § 1.525 in the '4812 reexamination proceeding, a decision under § 1.565(d) is timely.

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately and at the same time for a single patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of all of the proceedings. In making a decision on whether or not to merge the multiple proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

A review of the prosecution history of the '4812 reexamination file shows that the original specification, drawings and patent claims are presently in the reexamination file. Claim 7 was indicated to be patentable, and the final rejection of claims 1-6 was affirmed by the Court of Appeals for the Federal Circuit. The Court mandate issued on May 15, 2001. The reexamination proceeding is awaiting conclusion of the proceeding via the examiner's preparation of a Notice of Intent to Issue Reexamination Certificate.

A review of the reissue (Application No. 09/810,650) prosecution history shows that the reissue application was published in the *Official Gazette* on August 7, 2001. The application is awaiting a first Office action on the merits by the examiner. In the

reissue application, applicant has canceled claims 1-6, amended claim 7 and submitted new claims 8-9 for consideration. Thus, the claims are not identical in both proceedings. In order to provide efficient and prompt handling of both proceedings, and to prevent inconsistent and possibly conflicting amendments from being introduced, on behalf of the patent owner, it is appropriate that the reissue and the reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be conducted in accordance with the decision set forth below.

**DECISION MERGING THE REISSUE AND
REEXAMINATION PROCEEDINGS**

I. Merger of Proceedings

The above-identified reissue and reexamination proceeding are *sua sponte* merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in Both Proceedings

The patent owner is required to maintain identical amendments in the reissue application and the reexamination file for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 C.F.R. § 1.565(d). **An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in both cases**, specifically, Application No. 09/810,650, and Control Number 90/004,812. The response to the requirement must be limited to placing the same amendments in both cases, and patent owner must **not** address the issues of either of the proceedings in the housekeeping amendment. The housekeeping amendment should comply with the requirements for a response, as set forth below in Part III, the 2nd and 3rd paragraphs.

III. Conduct of the Merged Reissue and Reexamination Proceedings

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application, examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding. Each action will be physically entered into both files (which will be maintained as separate files).

Any response by the applicant/patent owner must consist of a single response, with two copies being filed for entry in both files, with each of the two copies bearing a signature. Any such responses must be served on the requester, who will also be sent copies of all Office actions. See 37 C.F.R. § 1.550(e).

If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Commissioner will proceed to issue a reexamination certificate under § 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Any grounds of

rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

Applicant/patent owner is advised that the filing of a continued prosecution (CPA) reissue application under 37 C.F.R. § 1.53(d), whereby the current reissue application is considered to be expressly abandoned, will most likely result in the dissolution of the merged proceeding, a stay of the CPA reissue application, and separate, continued prosecution as to the reexamination proceeding.

CONCLUSION

1. The above-identified reissue application and reexamination proceeding **ARE MERGED** into a single consolidated proceeding.
2. The reissue application file and the reexamination file are being forwarded to the Group Director of Technology Center 1600. All further examination should be conducted in accordance with this decision.
3. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE (1) MONTH of this decision**, placing the same amendments in both cases of the present merged proceeding.
4. The examiner should issue an Office action for the present merged proceeding of the reissue application and reexamination proceeding **after** the earlier of:
 - (a) the submission of the housekeeping amendment to place the same amendments in both cases
 - (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the amendment.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/810,650	05/15/01	Fumiyoshi Urano	910094R1
PATENT NUMBER	DATE OF THIS NOTICE	PAPER NUMBER	
5,216,135	11-07-01	37	

NOTICE OF MERGED REEXAM - REISSUE PROCEEDING

This reissue application has been merged with the reexamination proceeding listed below:

Control No. 90/ 004812 Filing Date: 10/23/97

Requester Judith A. Evans
(name, address) Jones & Volentine
12200 Sunrise Valley Drive
Suite 150
Reston, VA 20191

The front face of the reissue patent will include the following paragraph:

REEXAMINATION RESULTS

The questions raised in reexamination request No. 90/ 004812, filed 10/23/97, have been considered and the results thereof are reflected in this reissue patent which constitutes the reexamination certificate required by 35 U.S.C. 307 as provided in 37 CFR 1.570(e).



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

Wolf Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

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AUG 08 2002

OFFICE OF PETITIONS

In re Application of :
Kenneth P. Weiss :
Application No. 09/810,703 :
Filed: March 16, 2001 :
Attorney Docket No. W0537/7006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2002 and supplemented on July 31, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 22, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 23, 2001.

Petitioner is advised that the fee for a petition under 37 CFR 1.137(b) is \$1280 (large entity) and \$640 (small entity). Petitioner remitted \$1280 with the instant petition. The balance of \$640 will be credited to petitioner's deposit account no. 23-2825.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

The application file is being forwarded to 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

Sherry Brinkley

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
5 PALO ALTO SQUARE – 6TH FLOOR
3000 EL CAMINO REAL
PALO ALTO CA 94306-2155

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
Curtis E. Stevens :
Application No. 09/810,731 : DECISION ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. 38089-506F01US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to rely in a timely manner to the non-final Office action mailed July 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, by operation of law, the above-identified application became abandoned on October 29, 2006. A Notice of Abandonment was mailed February 9, 2007.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent was **intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 29, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Loren H. McRoss of Phoenix Technologies LTD., was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of the practice of Loren H. McRoss of Phoenix Technologies LTD. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Phoenix Technologies LTD and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the practice of Loren H. McRoss of Phoenix Technologies LTD, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman

Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the practice of Loren H. McRoss of Phoenix Technologies LTD and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

- (A) the date that the applicant first became aware of the abandonment of the application; and
- (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, the request for the change in power of attorney has been accepted and the Notice enclosed. Further, the request for change of correspondence address has been accepted.

Any renewed petition may be addressed as follows:

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

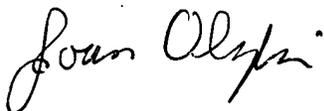
By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.



Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/810,731	03/16/2001	Curtis E. Stevens	00-1015

CONFIRMATION NO. 6847

POA ACCEPTANCE LETTER



23980
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
5 Palo Alto Square - 6th Floor
3000 El Camino Real
PALO ALTO, CA 94306-2155

Date Mailed: 09/17/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



Paper No. 6

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

COPY MAILED

MAR 18 2002

OFFICE OF PETITIONS

In re Application of	:	DECISION GRANTING PETITION
Ristic, Bhadula, Yang, Elthon, and	:	UNDER 37 CFR 1.78(a)(6)
Habben	:	AND REFUSING STATUS
Application No. 09/810,764	:	UNDER 37 CFR 1.47(a)
Filed: 16 March, 2001	:	
Attorney Docket No. P03965US1	:	

This is in response to the petition filed under 37 CFR 1.47(a)¹ on 9 January, 2002. This is also a decision on the petition under 37 CFR 1.78(a)(6) to accept a late claim of the benefit of a prior provisional application under 35 U.S.C. § 119(e) filed on 10 December, 2001.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

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

Receipt is acknowledged of the Application Data Sheet (ADS) filed by facsimile on 4 March, 2002, identifying prior provisional Application No. 60/204,204, filed on 11 May, 2000, is acknowledged.

Rule 47 applicant is given TWO MONTHS from the mailing date of

¹A grantable petition under 37 CFR 1.47(a) requires:
 (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
 (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
 (3) the petition fee; and
 (4) a statement of the last known address of the non-signing inventor.

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 16 March, 2001, without an executed oath or declaration. Accordingly, on 2 May, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring a signed oath or declaration and a surcharge for its late filing. In response, on 9 January, 2002 (certificate of mailing date 22 October, 2001), petitioners filed an executed declaration naming Zoran Ristic, Shailendra K. Bhadula, Genping Yang, Thomas E. Elthon, and Jaffrey E. Habben as joint inventors and signed by joint inventors Ristic, Bhadula, Elthon, and Habben on behalf of themselves and joint inventor Yang. The present petition, also filed on 9 January, 2002, asserts that Yang was sent a copy of the application but the application was returned by the U.S. Postal Service.

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 items (1), (2), and (5).

In regards to item (1) and (5), petitioners have not shown that diligent efforts have been made to locate the non-signing inventor at his last known address.² The last known address

²MPEP 409.03(d).

should be the address at which the inventor customarily receives mail, will ordinarily be the last known residence of the nonsigning inventor.³ In this case, the declaration of Patricia E. Wilson states that one of the other inventors, Dr. Ristic, stated to her that Dr. Yang was no longer employed by the University of South Dakota, which is given as Yang's last known address. Obviously, Dr. Yang is no longer receiving mail at this address.

A diligent effort to contact Yang would therefore involve attempting to determine the current residence of Yang, and, if a new address for Yang is found, attempting to contact him there by giving or sending him a copy of the application papers (specification, including claims, drawings, if any, and the declaration) at that address. A brief Internet search reveals that Dr. Yang may reside at another address in Vermillion, SD.

If the application is returned as undeliverable, petitioners should submit a copy of the envelope showing that the envelope addressed to the non-signing inventor at his last known address was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor must be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Petitioner should also explain what attempts were made to obtain a forwarding address and to locate each inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. through e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.

If the inventor refuses in writing to sign the declaration after having been sent or given a copy, 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.

In regards to item (2), petitioner has not submitted a proper oath or declaration in compliance with 37 CFR 1.63. The mailing address provided in the declaration for Dr. Yang is the address of his former employer. In situations where an inventor does not execute the oath or declaration, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the

³MPEP 409.03(e).

inventor. A new oath or declaration, signed by all the signing inventors,⁴ is required.

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

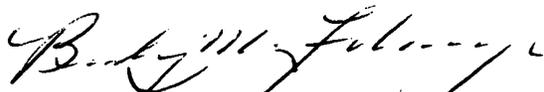
By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

The application is being forwarded to the Office of Initial Patent Examination for correction of Office PALM records to indicate that this application claims priority from Application No. 60/203,204, and for issuance of a corrected filing receipt. Thereafter, the application file will be returned to the Office of Petitions to await petitioners' response to the dismissal of the petition under 37 CFR 1.47(a).

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at 703-308-6918.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
01w 07-02

Genping Yang
302 Prospect Street
Vermillion, SD 57069

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JUL 1 0 2002

OFFICE OF PETITIONS

In re Application of
Ristic et al.

Application No. 09/810,764

Filed: 16 March, 2001

For: MAIZE CHLOROPLAST PROTEIN SYNTHESIS ELONGATION FACTORS AND METHODS OF USE
FOR SAME

Dear Mr. Yang:

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).

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

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721



Paper No. 10

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

COPY MAILED**JUL 10 2002****OFFICE OF PETITIONS**

In re Application of	: DECISION ACCORDING STATUS
Ristic, Bhadula, Yang, Elthon, and	: UNDER 37 CFR 1.47(a)
Habben	: AND
Application No. 09/810,764	: DECISION DISMISSING PETITION
Filed: 16 March, 2001	: UNDER 37 CFR 1.84(b)
Attorney Docket No. P03965US1	: AS MOOT

This is in response to the renewed petition filed under 37 CFR 1.47(a)¹ on 24 June, 2002 (certificate of mailing date 18 June, 2002). This is also a decision on the petition under 37 CFR 1.84(b) to accept black and white photographs as drawings, filed on 14 January, 2002 (certificate of mailing date 22 October, 2001).

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

The petition under 37 CFR 1.84(b) is **DISMISSED AS MOOT**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown that a copy of the application sent to the non-signing inventor's last known address was returned as undeliverable by the U.S. Post Office. The declaration of facts by counsel's legal secretary, Patricia E.

¹A grantable petition under 37 CFR 1.47(a) requires:
(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

Wilson, establishes that despite attempts made to locate the non-signing inventor, the inventor could not be located.

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

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

Effective 4 August, 1998, a petition and petition fee are no longer required in order to accept black and white photographs in lieu of drawings.² A copy of the *Official Gazette* publication of this change is attached. The petition will therefore be considered a request to accept black and white photographs in lieu of drawings. The petition is hereby dismissed as moot. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 26-0084.

After this decision is mailed, the above-identified 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.


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

Encl: 1213 O.G. 108

²See 1213 Off. Gaz. Pat. Off. 108 (August 4, 1998).



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Brooks Kushman P. C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075

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OFFICE OF PETITIONS

In re Patent No. 6,931,018 :
Issue Date: August 16, 2005 :
Application No. 09/810,780 : ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. 2001-0153 :

This is a decision on the petition filed September 22, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 13 2004

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Timothy James Jegla :
Serial No.: 09/810,796 :
Filed: March 15, 2001 :
Attorney Docket No.: 018512-005010US :

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on June 3, 2004, requesting withdrawal of the holding of abandonment of the above-identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a final Office action, setting a three-month statutory time period for reply, to applicant on August 25, 2003. On June 7, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of August 25, 2003 was never received and provides as evidence thereof a copy of the attorney docket record where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed June 7, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Jasemin C. Chambers

Jasemin C. Chambers
Director, Technology Center 1600



THOMAS J. TIGHE, ESQ.
6265 GREENWICH DRIVE, SUITE 103
SAN DIEGO CA 92122

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Mark Hamilton Jones
Application No. 09/810,800
Filed: March 15, 2001
Attorney Docket No. 5450 PA02

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on March 30, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on December 29, 2003. By Advisory Action dated July 14, 2004, petitioners were informed that the reply to the Office Action, filed June 7, 2004 (May 29, 2004 certificate of mail date) with a two month extension of time, did not place the application in condition for allowance. This petition and decision on petition precedes the mailing of the Notice of Abandonment.

¹Effective 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);

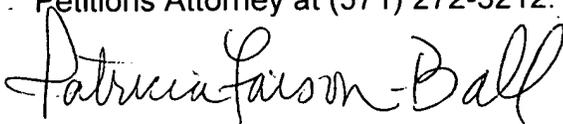
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional;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

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

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

This matter is being referred to Technology Center 3711 for processing of the RCE and submission.

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

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the typed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



THOMAS J. TIGHE, ESQ.
6265 GREENWICH DRIVE, SUITE 103
SAN DIEGO CA 92122

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OCT 20 2006

OFFICE OF PETITIONS

In re Application of :
Mark Hamilton Jones :
Application No. 09/810,800 : **ON PETITION**
Filed: March 15, 2001 :
Attorney Docket No.: 5450 PA02 :

This is a decision on the petition filed July 20, 2006 under 37 CFR 1.137(b),¹ 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 15, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 16, 2005. Accordingly, a Notice of Abandonment was mailed on June 1, 2006.

This matter is being referred to Technology Center 3711 for appropriate action on the amendment filed July 20, 2006.

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

Patricia Faison-Balf
Patricia Faison-Balf
Senior Petitions Attorney
Office of Petitions

¹Effective 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 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 37 CFR 1.137(c).



Paper No. 13

WITHROW & TERRANOVA
P.O. BOX 1287
CARY, NC 27512

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of	:	
Ian J. Forster et al	:	
Application No. 09/810,858	:	ON PETITION
Filed: March 16, 2001	:	
Attorney Docket No. 4579-116	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 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 2821.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

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MAY 04 2006

OFFICE OF PETITIONS

In re Patent No. 6,770,799 :
Issued: 3 August, 2004 :
Application No. 09/810,861 : **ON PETITION**
Filed: 16 March, 2001 :
Atty Dckt No. BTI-45 :

This is a decision on the petition filed on 17 August, 2004, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The Certificate of Correction fee will be charged to counsel's deposit account, as authorized on the Request for Certificate of Correction filed with the present petition.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹ See Official Gazette of 22 June, 2004.



UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of:
Steven J. Brown
Application No. 09/810,865
Filed: March 16, 2001
For: DISEASE SIMULATION SYSTEM AND
METHOD

MAIL

MAR - 9 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

**DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT**

This is a decision on the Request To Withdraw from Representation under 37 CFR filed October 22, 2004.

A revocation And Substitution of Power of Attorney Under 37 CFR 1.136 was filed on December 21, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Morgan, Lewis & Bockius LLP as the attorneys of record of the instant application. The Power Of Attorney of December 21, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Morgan, Lewis & Bockius LLP.

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

7m

Vincent N. Trans

Special Program Examiner

Technology Center 2100

Computer Architecture, Software, and
Information Security

571-272-3613

cc: Craig P. Opperman
MORGAN, LEWIS & BOCKIUS LLP
2 Palo Alto Square, Suite 700
3000 El Camino Real
Palo Alto, CA 94306



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1460
ALEXANDRIA, VA 22313-1460
WWW.USPTO.GOV

MAIL

MAR 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Morgan, Lewis & Bockius, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

In re Application of: Brown)
Application No. 09/810,865) *SUA SPONTE*
Attorney Docket No. HERO-1-1112) WITHDRAWAL OF HOLDING OF
Filed: March 16, 2001) ABANDONMENT
For: DISEASE SIMULATION SYSTEM)
AND METHOD)

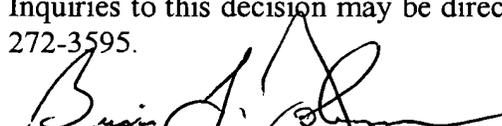
The information and request for withdrawal of the holding of abandonment, filed May 24, 2004 is acknowledged.

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on May 3, 2004. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Office communication (mailed on October 28, 2003). The notice of abandonment also indicates that the Examiner phoned to confirm that no amendment had been filed in response to the October 28, 2003 Office action however, the indication does not list the attorney and does not include an interview summary. Note the revocation of power of attorney and change of address filed February 23, 2004 (filed after the mailing of the Office communication and before the mailing of the Notice of Abandonment), which was approved on March 9, 2004. A timely filed amendment with a three-month extension of time (37 CFR § 1.136(a)) was filed on May 3, 2004 bearing a certificate of mailing under 37 CFR § 1.8(a) on April 28, 2004. Accordingly, the amendment/response was timely filed.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.


Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
3/8/05



N. KENNETH BURRASTON
KIRTON & MCCONKIE
P.O. BOX 45120
SALT LAKE CITY UT 84145-0120

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of
Eldridge et al.
Application No. 09/810,871
Filed: March 16, 2001
Title: Wafer Level Interposer

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 7, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on February 3, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on May 4, 2005. A Notice of Abandonment was mailed on August 10, 2005.

In the present petition, petitioner contends the a Notice of Appeal, a petition for three month extension of time and a credit card payment form were submitted on August 8, 2005 (certificate of mailing August 3, 2005).

The response submitted August 8, 2005 has been located in the Office.

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

The Office acknowledges receipt of the RCE and amendment submitted on petition.

The application is being forwarded to the Technology Center 2800 for further processing.

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



Charlema R. Grant

Petitions Attorney

Office of Petitions



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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OCT - 7 2003

Mailed:

td
Paper Number: 22

In re application of

Bitler et al.

Serial No. 09/810,920

Filed: March 16, 2001

For: POLYMERIC THICKENERS FOR OIL-CONTAINING COMPOSITIONS

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO DIRECT THE EXAMINER AS TO THE CORRECT CONSTRUCTION OF CERTAIN CLAIMS.

On March 31, 2003, a non-final office action was mailed to Applicants. The office action contained numerous rejections and objections to the specification based on new matter and claim interpretation. Petitioner argues that the instant specification provides support for all of the subject matter presented by Applicants and that the examiner is interpreting the instant claims too narrowly.

On June 23, 2003 the instant petition under 37 CFR 1.181 was filed to formally request that the examiner be directed to construct the instant claims in a correct manner.

DECISION

It is noted that the instant petition was submitted by Petitioner on June 23, 2003 which falls more than two months after the date of the office action thereby making the instant petition untimely under Rule 181.

In addition, it would appear on its face that there is no issue that is ripe for a petition at this time. It is noted that the outstanding office action is a non-final office action and therefore, the rejections and objections are not yet final. Petitioner states that "The examiner is currently examining these claims on the basis of a construction of the claims which Applicant believes to be wrong. The claims in question have been rejected, and it seems likely that their patentability will be the subject of an appeal. Applicant believes that it is important that further examination, and any appeal, should be based on an agreed construction of the claims." While this would be desirable, this does not appear to be a petitionable matter. It would seem that the issue of claim interpretation and the subsequent rejections/objections presented that are based upon this interpretation, should best be handled by the Board of Patent Appeals and Interferences.

Accordingly, because the instant petition is untimely and because there does not appear to be a petitionable issue present, the instant petition is **DISMISSED**.

The examiner however, should take note of Section MPEP Section 706.07 of the MPEP which states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant.

Before making the next office action final, the examiner should clearly point out how he is interpreting the claims and provide clear reasoning as to why he is interpreting the claims in that manner. Applicant's arguments regarding this matter should be thoroughly addressed.

Upon receipt of a final office action, if Petitioner feels that a clear issue for appeal has not been developed, then a petition to withdraw the finality can be filed.

It is also pointed out that applicant's time for response continues to run from March 31, 2003. Extensions of time may be obtained to file any amendments.



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

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9TH FLOOR
PASADENA CA 91101



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

td

Mailed: MAY 12 2004
In re application of
Bitler et al.
Serial No. 09/810,920
Filed: March 16, 2001
For: POLYMERIC THICKENERS FOR OIL-CONTAINING COMPOSITIONS

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed October 10, 2003.

On March 21, 2003, a non-final office action was mailed by the examiner, containing multiple grounds of rejection. Applicants responded to this office action with a response filed on June 23, 2003. A final rejection was then mailed on October 10, 2003.

On December 12, 2003, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the October 10, 2003 office action.

Applicants position for the withdrawal of the finality is that clear issues have not been developed between the examiner and Applicants, contrary to the guidelines of MPEP 706.07. It is therefore the position of Applicants that the finality of the office action is premature.

DECISION

Section 706.07 of the MPEP states:

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

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.

However, where a single previous Office action contains a complete statement of a ground of rejection, the final rejection may refer to such a statement and also should

include a rebuttal of any arguments raised in the applicant's reply. If appeal is taken in such a case, the examiner's answer should contain a complete statement of the examiner's position.

There are several deficiencies in the final office action of October 10, 2003. The 35 USC 102 rejection will be addressed first. In the non-final office action of March 31, 2003, the examiner changed the basis for the rejection under 35 USC 102 from a rejection over Mueller et al. to a rejection over Mueller et al. with Morawsky et al. as a teaching reference. There is nothing in the body of the rejection other than a statement saying the text of 35 USC 102 can be found in previous office actions. The examiner does not clearly explain why he has brought in a teaching reference and what exactly he is using the reference to teach in conjunction with the primary reference. This information should have been provided to Applicants in the body of the rejection. Likewise, the final rejection only includes a statement that the text of 35 USC 102 can be found in previous office actions. It is noted that the examiner addresses Morawsky in the "response to arguments" section but it is unclear as to whether he is providing support for the 35 USC 102 rejection or the 35 USC 103 rejection. It is also pointed out that in the non-final rejection, claims 1-7, 9-12, 20, 37 and 38 are rejected under 35 USC 102 while in the final rejection, claims 1-5, 9-12, 20, 37-38 and 62-63 are rejected. The examiner should have provided an explanation as to why claims 6 and 7 were not rejected in the final office action or whether they were mistakenly included in the previous grounds of rejection.

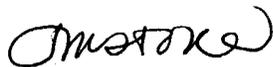
Next, the 35 USC 103 rejection will be addressed. In the non-final office action, claims 1-6, 9-12, 20, 37 and 38 were rejected under 35 USC 103 over Mueller et al. in view of Morawsky et al. Once again, the examiner has not included the text of any rejection in the office action, but rather refers to previous office actions. A first office action prepared by the examiner on January 28, 2002 contained a rejection under 35 USC over Mueller et al. This office action contained a 4 line explanation as to why the claims would have been obvious over this single reference. No specific differences were pointed out and a thorough explanation of the rejection was not provided. All of the office actions after this original office action merely referred back to the aforementioned single reference 35 USC 103 rejection. No further explanation was ever given. In the non-final action of March 31, 2003, the examiner changed the 35 USC 103 rejection to a combination rejection over Mueller et al. in view of Morawsky et al. No explanation was provided other than to tell applicants that the text of 35 USC 103 can be found in a previous office action. This rejection was clearly incomplete. All rejections under 35 USC 103 must be evaluated using the *Graham v. Deere* analysis clearly stating what the references teach; any differences between the references and the instant claims; and why said differences would be obvious to one of ordinary skill in the art. The examiner failed to clearly set forth this analysis in the non-final office action of March 31, 2003. The rejection is merely repeated in the final office action with no further explanation as to what the basis for obviousness is.

Further making the record unclear is the fact that all of the claims have been rejected under 35 USC 102 and 35 USC 103 using the same references. If all the claim limitations are met by Mueller et al. as is alleged by the examiner in the 35 USC 102 rejection, then it is unclear as to how a 35 USC 103 rejection over the combination of the same references is applicable. Once again, the examiner has not provided any explanation as to why both a 35 USC 102 and a 35 USC 103 rejection are necessary.

Petitioner has also raised the argument that the examiner has not addressed several arguments presented throughout the prosecution. One such argument that the examiner has made an improper

combination of the two references is a result of the examiner not presenting a complete rejection. This has not given applicants a fair opportunity to respond to the rejections. Petitioner's argument that the instant application is not ready for appeal is persuasive.

Because several issues remain unclear and confusing (e.g. basis of the rejection), this application is being forwarded to the examiner in order to prepare a new non-final office action. All amendments filed up to this point shall be entered. The office action should include all rejections that are being relied upon including a detailed explanation as to how each reference is being applied and how each reference meets each and every claim limitation. Any 35 USC 103 rejection should include a complete *Graham v. Deere* analysis as discussed above. Differences should be clearly pointed out and motivation for any combination should be clearly stated so that applicants have a fair chance to respond. Furthermore, if claims are to be rejected under multiple statutes (i.e. 35 USC 102 and 35 USC 103) the examiner should provide reasoning as to why the claims are being rejected under both. Accordingly, the petition for withdrawal of finality is **GRANTED**.



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PASADENA CA 91101



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PASADENA CA 91101

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of
Steven P. Bitler et al.
Application No. 09/810,920
Filed: March 16, 2001
Attorney Docket No. 12969-1

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.55(c)
:

This is a decision on the petition under 37 CFR 1.55(c), filed January 14, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of prior-filed PCT application no. PCT/US00/40780, as set forth in the concurrently filed declaration.

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, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));**
- (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) 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.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit 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(a)-(d) and 37 CFR 1.55(a)(1) 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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT 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 application is being to Technology Center Art Unit 1714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(a)-(d) of the prior-filed PCT application.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 6, 2005

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6,934,655

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:


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2857

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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TOWNSEND AND TOWNSEND AND DREW,
LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

DEC 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of: :
Gudmundur Hjartarson :
Application No. 09/810,938 :
Filed: October 3, 2002 :
For: SYSTEM AND METHOD FOR :
PROGRAMMABLE SPECTRUM MANAGEMENT :

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on September 27, 2004

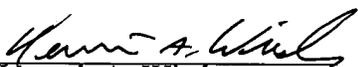
A grantable request to withdraw as attorney/agent of record must:

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

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

All of the attorneys/agents associated with Customer Number 20350 have been withdrawn.

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


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

cc: Kris V. Kalidindi, Esq.
Potomac Patent Group, PLLC
2010 Corporate Ridge, Suite 700
McLean, VA 22102



MAILED

DEC 28 2001

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

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

Paper No. 8

In re Application of : M. Goeller et al.
Application No. 09/810,945
Filed: March 15, 2001
For: POINT OF SALE CHECK SERVICE

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition, filed October 1, 2001, to make the above-identified application special under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 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 clearly comply with (C) and (E) above. With respect to (C), a box is checked on the submitted form indicating a field of search in "classes" and "subclasses", but there are no class or subclass numbers filled in to identify which ones were searched. With respect to (E), applicant has not pointed out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references. Claim 1 calls for a drawee computer that is "arranged to perform conversion, verification or guarantee". Note the use of "or" meaning that only one of "conversion, verification or guarantee" needs to be met in order to read on the claim. This impacts the discussion of the references in that some references are only asserted as not teaching or suggesting one of the three alternatives. Note the discussion of Higashiyama et al. with respect to claim 1 for example, which states that it does not "teach or suggest a drawee computer that is arranged to perform guarantee of checks based upon transaction information, as specifically required by claim 1". The discussions of claims 9 and 17 have similar issues of alternatives.

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.



Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780



Paper No. 13

Beyer Weaver & Thomas LLP
P.O. Box 778
Berkeley, California 94704-0778

21 MAY 2002

In re Application of: Michael Goeller et al.)	
Application No. 09/810,945	)	DECISION ON PETITION FOR
Filed: March 15, 2001	)	ACCELERATED EXAMINATION
For: POINT OF SALE CHECK SERVICE	)	UNDER M.P.E.P. §708.02(VIII)

This is a decision on the supplemental petition, filed February 21, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special. The petition was filed in response to a denial of the original petition filed October 1, 2001.

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.

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

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



Robert A. Weinhardt
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 305-9780



UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONATHAN P. OSHA
ROSENTHAL & OSHA, L.L.P.
700 LOUISIANA, SUITE 4550
HOUSTON, TX 77002

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OCT 3 1 2001

OFFICE OF PETITIONS

In re Application of
Toshihiro Shima
Application No. 09/810,949
Filed: March 16, 2001
Attorney Docket No. 04783/018001

:
: DECISION GRANTING
: PETITION
:
:

This is a decision on the paper filed August 6, 2001, which is being treated as a petition requesting that the above-identified application be accorded a filing date of March 16, 2001, rather than the presently accorded filing date of March 18, 2001.

Petitioners allege that the application was deposited in Express Mail service on March 16, 2001. In support, the petition is accompanied by a copy of Express Mail receipt No. EL656796428US (the same Express Mail number found on the original application papers located in the official file).

A review of USPS records conducted at the U.S. Patent and Trademark Office prior to this decision using "USPTO's USPS Express Mail Information Database" reveals that the date and time the package identified by Express Mail receipt EL656796428US was accepted by the USPS is March 16, at 4:51 pm.

In view of the above, the petition is granted. The application will be accorded a filing date of March 16, 2001.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of March 16, 2001, and issuance of a corrected filing receipt. Afterwards, the application will be forwarded to Technology Center Art Unit 2861 for examination in due course.

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

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



Paper No. 12

JIM WHEELINGTON
FINA TECHNOLOGY INC
P.O. BOX 674412
HOUSTON, TX 77267-4412

COPY MAILED
DEC 02 2003
OFFICE OF PETITIONS

In re Application of :
Aiko Hanyu et al :
Application No. 09/810,956 : ON PETITION
Filed: March 16, 2001 :
Attorney Docket No. COS-822 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 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 March 24, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed, and 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, 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.

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 1773 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and the concurrently filed Arguments.


Wan Laymon

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

cc: BRADLEY A. MISLEY
15710 JFK BLVD.
HOUSTON, TX 77032



Paper No. 10

Raymond Van Dyke, Reg. No. 34,746
Nixon Peabody LLP
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

COPY MAILED

MAY 19 2004

In re Application of	:	OFFICE OF PETITIONS
Nair	:	
Application No. 09/810,957	:	ON PETITION
Filed: March 16, 2001	:	
Attorney Docket No. 032207-8000	:	

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative under 37 CFR 1.137(b), filed May 13, 2004, to revive the above-identified application.

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

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The petition states that a Change of Correspondence Address is enclosed, but a copy of the form cannot be located in the file. However, the address has been changed to the address listed above. In addition, the Office has changed the attorney docket number.

A petition fee of \$110 for the petition under 37 CFR 1.137(a) and a petition fee of \$1,330 for the petition under 37 CFR 1.137(b) have been charged to deposit account no. 19-2380.

Facts:

The attorney for petitioner changed law firms. However, a Request to Change the Correspondence Address was not immediately filed.

On April 30, 2001, the Office mailed a Notice to File Corrected Application Papers (Notice) which set a period for reply of two (2) months from the mail date of the Notice.

The Notice was received by the original law firm.

A copy of the Notice was never received by the new law firm and the record fails to indicate that the original law firm attempted to forward a copy of the Notice to the new law firm.

Since no extensions of time were attained, the application became abandoned as of July 1, 2001.

A request to change the address of record was filed on October 9, 2001.

A Notice of Abandonment was mailed on February 19, 2004.

Analysis:

Petitions under 37 CFR 1.137(a) and 1.137(b) must be accompanied by the required reply. The petition and corrected drawings were submitted by facsimile transmission. Drawings may not be submitted by facsimile transmission. A request for reconsideration, along with corrected drawings, should be mailed or hand delivered to the Office.

A petition under 37 CFR 1.137(a) must be accompanied by 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. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”² Petitioner bears the burden of proof.

The attorney for petitioner chose to rely on the original law firm rather than immediately file a request to change the correspondence address. Petitioner may choose to rely on a third party, such as the original law firm. However, such reliance will not, per se, constitute “unavoidable” delay. In order to establish unavoidable delay, petitioner would need to establish two things. First, petitioner would need to establish that reliance on the original law firm to forward all mail related to the instant application was reasonable and prudent. The petition fails to prove that the original law firm agreed to forward mail related to the instant application to the attorney for petitioner. Second, petitioner would need to prove that the original law firm acted reasonably and prudently to ensure mail would be properly forwarded. Petitioner has failed to prove that reasonable and prudent steps were taken by the original law firm to ensure all mail would be properly forwarded. If the former law firm failed to take proper precautions and made any errors, petitioner is bound by such errors.³

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

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

By hand: U.S. Patent and Trademark Office
 2011 South Clark Place
 Customer Window
 Crystal Plaza Two, Lobby, Room 1B03
 Arlington, VA 22202

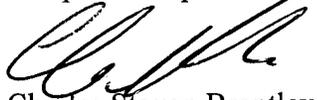
¹ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

³ See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Wabash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



Charles Steven Brantley
Petitions Attorney
Office of Petitions



Paper No. 13

Raymond Van Dyke, Reg. No. 34,746
Nixon Peabody LLP
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Nair :
Application No. 09/810,957 :
Filed: March 16, 2001 :
Attorney Docket No. 032207-8000 :

ON PETITION

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

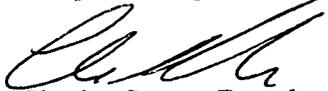
The petition under 37 CFR 1.137(b) is **granted**.

On April 30, 2001, the Office mailed a Notice to File Corrected Application Papers (Notice) which set a period for reply of two (2) months from the mail date of the Notice. A response to the Notice was not filed and the application became abandoned as of July 1, 2001. A Notice of Abandonment was mailed on February 19, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

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

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


Charles Steven Brantley
Petitions Attorney
Office of Petitions



Paper No. 6

**DAVID H. JUDSON
LOCKE LIDDELL & SAPP, LLP
2200 ROSS AVENUE, SUITE 2200
DALLAS, TX 75230**

COPY MAILED

FEB 24 2004

OFFICE OF PETITIONS

In re Application of
Bailey et al.
Application No. 09/810,982
Filed: March 16, 2001
Attorney Docket No. 03142 00011.32

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 11, 2004, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 1, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 2, 2001. A Notice of Abandonment was mailed on September 2, 2003.

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

Petitioner's deposit account was charged \$1330.00 for the petition fee and \$130.00 for the late declaration surcharge as authorized.

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D. C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/810,993	03/16/2001	Shlomit Gilad	0168.00102

CONFIRMATION NO. 7309

FORMALITIES LETTER



OC00000006110803

Kenneth I. Kohn
KOHN & ASSOCIATES
30500 Northwestern Highway, Suite 410
Farmington Hills, MI 48334

Date Mailed: 05/24/2001

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 unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 65.**
- 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

09/19/2001 AWONDAF1 00000011 09810993

11 FC:205

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- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



NATIONAL INSTITUTE OF HEALTH
C/O NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30303

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
David M. Neville, et al.	:	DECISION ON PETITIONS
Application No. 09/810,999	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: March 16, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 14028.0284U2	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and § 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed specification.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on March 16, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed 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) and 1.78(a)(5)(iii).

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). 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 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-filed applications under 37 CFR §§ 1.78(a)(3) and 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 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 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. 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 applications, accompanies this decision on petition.

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229.

This application is being forwarded to Technology Center Art Unit 1644 for processing of the Request for Continued Examination (RCE) and for appropriate action on the amendment submitted on December 9, 2004, including 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt



NATIONAL INSTITUTE OF HEALTH
C/O NEEDLE & ROSENBERG PC
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309

COPY MAILED

SEP 12 2007

In re Application of :
Neville, et al. :
Application No. 09/810,999 :
Filed: March 16, 2001 :
Attorney Docket No. 14028.0284U2 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed on July 23, 2007.

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

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 1, 2007, which set a statutory period for reply of three (3) months. Applicant filed the issue fee on May 4, 2007. The issue fee did not contain a timely Certificate of Mailing. Accordingly, the application became abandoned on May 2, 2007. A Notice of Abandonment was mailed on May 30, 2007.

Petition Under 37 CFR 1.181:

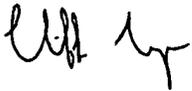
As set forth above, and as acknowledged by petitioner, the issue fee transmittal form did not contain an executed Certificate of Mailing. As such, the issue fee is considered filed on the day it is received in the Office, or May 4, 2007. In view thereof, the petition to withdraw the holding of abandonment under 37 CFR 1.181 must be dismissed.

Petition Under 37 CFR 1.137(b):

However, petitioner has met the requirements to revive the application under 37 CFR 1.137(b). Petitioner paid the petition fee and made the proper statement of unintentional delay.

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

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



Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 16 2005

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of :
AXELSON et al. :
Serial No. 09/811,042 : **LETTER RESCINDING**
Filed March 17, 2001 : **NOTICE OF ABANDONMENT**
For: **SYSTEMS USED IN PERFORMING** :
FEMORAL AND TIBIAL RESECTION :
IN KNEE SURGERY :

A notice of Abandonment, Form PTO-1432 was mailed on May 3, 2005 in patent application Serial No. 09/811,042. The Notice of Abandonment stated that applicant failed to file a response to the Office letter dated October 27, 2004.

A timely response to the Office letter in question, filed May 2, 2005 with an extension for three months and a certificate of mailing has now been received in Group 3700 and associated with the application file. Accordingly, the Notice of Abandonment is hereby **RESCINDED**.

Any inconvenience to applicant is regretted.

Frederick R. Schmidt, Director
Patent Examining Group 3700

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)
6859239	2005-02-22	09811055	2001-03-15	ABRIL.0106

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/Steven H. Washam/	Date (YYYY-MM-DD)	2009-08-21
Name	Steven H. Washam	Registration Number	58266

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

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6859239 :
Issue Date: February 22,2005 :
Application No. 09811055 :DECISION GRANTING PETITION
Filed: March 15,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. ABRIL.0106 :

This is a decision on the electronic petition, filed August 21,2009 ,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 21,2009 . 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.



Paper No. 7

SMITH-HILL AND BEDELL, P.C.
12670 N.W. BARNES ROAD, SUITE 104
PORTLAND, OR 97220

COPY MAILED

DEC 1 1 2001

OFFICE OF PETITIONS

**DECISION GRANTING
PETITION**

In re Application of
Probst
Application No. 09/811,059
Filed: March 15, 2001
Attorney Docket No. ZIP 2216

This is a decision on the petition filed on September 24, 2001, requesting that the above-identified application be accorded a filing date of March 15, 2001, rather than the presently accorded filing date of July 16, 2001.

The petition is **GRANTED**.

The application deposited on March 15, 2001 was in German. On May 7, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), stating that the application had been accorded a filing date of March 15, 2001, that the oath or declaration was missing, and that an English translation of the application, a statement that the translation is accurate, and a \$130 fee for processing the German language application were required under 37 CFR 1.52(d).

On July 16, 2001, Applicant filed an English translation of the original German language application, a statement that the translation is accurate, a Preliminary Amendment, a Declaration and Power of Attorney, and a request for a 1-month extension of time for filing these documents. A Filing Receipt was mailed by OIPE on September 13, 2001 indicating a filing date of July 16, 2001. In response, the present petition was filed.

Under 37 CFR 1.52(b), the specification of an application, including the claims and drawings, and the oath or declaration must be in the English language or be accompanied by a translation of the application together with a statement that the translation is accurate. However, 37 CFR 1.52(d) permits the applicant of a non-English language application to file an English translation and the accompanying statement within the time period set forth in an Office notice such as the May 7, 2001 Notice, if they were not filed with the original non-English language application. An application, once meeting the requirements of 35 U.S.C. 111(a),¹ **will be accorded a filing date even though some or all of the application papers, including the written description and the claims, is in a language other than English, and hence does not comply with 37 CFR 1.52.**²

¹ I.e., containing a specification including at least one claim, and necessary drawings; see 35 U.S.C. 111(a), 112; 37 CFR 1.53(b).

² See MPEP section 608.01 (Aug. 2001), Filing of Non-English Language Applications.

The July 16, 2001 English translation was accompanied by a statement that it is an accurate translation of the March 15, 2001 German language application. This translation of the original application includes a specification as prescribed by 35 U.S.C. 112,³ and necessary drawings as prescribed by 35 U.S.C. 113.⁴ Therefore, the German language application filed on March 15, 2001 met the filing date requirements and is entitled to the requested filing date. The petition is thus granted. No petition fee is owed.

The Office also acknowledges receipt on July 20, 2001 (Certificate of Mailing date July 11, 2001) of a certified priority document claiming priority of the application filed in Germany on March 15, 2000.

The application is being returned to OIPE for further processing with a filing date of March 15, 2001, using the papers filed on that date and supplemented with the English translation and the Preliminary Amendment on July 16, 2001. Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

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

³ I.e., containing an enabling description of the invention (pages 1-4), the best mode (page 2, lines 11-13), and at least 1 claim (14 claims are included).

⁴ The previously filed drawings were labeled in English.



UNITED STATES 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 Gillette Company
Prudential Tower Building
Boston, MA 02199

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JUN 10 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Hilscher, et al. :
Application No. 09/811,080 :
Filed: March 16, 2001 :
Attorney Docket No. B-06506 :

ON PETITION

This is a decision on the petition, filed June 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

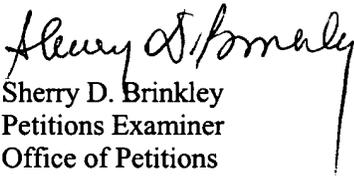
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The application is being referred to Technology Center AU 1744 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

¹The 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).



Paper No. 5

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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MAR 20 2002

OFFICE OF PETITIONS

In re Application of :
Isaza et al. :
Application No. 09/811,104 : DECISION REFUSING STATUS
Filed: 16 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. PURIT 54796 :

This is in response to the petition filed under 37 CFR 1.47(a) on 3 May, 2001, and the petition filed under 37 CFR 1.324 on 16 March, 2001. The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition under 37 CFR 1.47(a) is DISMISSED.

The petition under 37 CFR 1.324 is DISMISSED AS MOOT.

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 16 March, 2001, without an oath or declaration. Accordingly, on 3 May, 2001, petitioners filed a reissue declaration naming Fernando J. Isaza, Stanley Y. Wong, and Peter Doyle as joint inventors and signed by joint inventors Isaza and Doyle on behalf of themselves and joint inventor Wong.

Petition Under 37 CFR 1.47(a)

Petitioners state that joint inventor Wong could not be found. A

copy of the application, state petitioners, was forwarded to Wong's last known address but was returned as undeliverable. Petitioners further state that they contacted Wong's former employer in an attempt to obtain a more recent address for Wong, but that no other address could be obtained.

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), (2), and (5). In regards to items (1), petitioner has not submitted sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor.

Petitioners state that a copy of the application sent to the last known address of the non-signing inventor was returned as undeliverable, and that petitioners' counsel contacted the non-signing inventor's former employer, but was unable to obtain a more recent address. A brief Internet search, however, suggests that joint inventor Wong may now be living in Rancho Santa Margarita, CA.

Petitioners should verify the last known address of the non-signing inventor, and, if a current address is discovered, send or give a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at the last known address. If the inventor refuses to sign in writing, a copy of that written refusal must be submitted with any renewed petition. If the inventor refuses orally, a person to whom that refusal was made must provide details of the refusal in an affidavit or declaration of facts. If the application is returned as undeliverable, a copy of the envelope showing the application papers were returned as undeliverable should be submitted with any renewed petition.

Petitioner should explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having *first hand* knowledge of the details. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

With regards to item (2), the declaration is defective because (a) the declaration does not specify the mailing address, and the residence, if the inventor lives at a different location than where the inventor receives mail, for each inventor, and (b) the reissue declaration does not state that all errors being corrected in the reissue application up to the time of filing of the oath or declaration arose without any deceptive intention on the part of the applicant.¹

In regards to item (5), petitioners should verify the validity of the last known address as described under item (1), above.

Additionally, the consent of assignee as required by 37 CFR 1.172(a) and 37 CFR 3.73(b) is defective in that the person who signed the submission establishing ownership interest is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee.² The person signing the statement is identified as an assistant secretary of the assignee. The statement must be signed by an officer of the corporation (president, vice president, secretary, or treasurer), or, if the statement is not signed by an officer of the assignee corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.³

¹37 CFR 1.175(a)(2).

²See MPEP 324.

³See MPEP 409.03(b).

Petition Under 37 CFR 1.324

With respect to the petition under 37 CFR 1.324, the reissue application with its reissue oath or declaration under 37 CFR 1.175 provides a complete mechanism to correct inventorship.⁴ A request under 37 CFR 1.48 or a petition under 37 CFR 1.175 cannot be used to correct the inventorship of a reissue application. If a request under 37 CFR 1.48 or a petition under 37 CFR 1.175 is filed in a reissue application, the request or petition should be dismissed and the processing or petition fee refunded. The material submitted with the request or petition should then be considered to determine if it complies with 37 CFR 1.175. If the material submitted with the request or petition does comply with the requirements of 37 CFR 1.175 (and the reissue application is otherwise in order), the correction of inventorship will be permitted as a correction of an error in the patent under 35 U.S.C. § 251.

The petition fee of \$130.00 submitted with the petition under 37 CFR 1.324 will be credited to counsel's deposit account, No. 06-2425.

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

⁴See A.F. Stoddard & Co. v. Dann, 564 F.2d 556, 567, 195 USPQ 97, 106 (D.C. Cir. 1977).

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



Paper No. 9

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

COPY MAILED

JUL 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Isaza et al. :
Application No. 09/811,104 : DECISION ACCORDING STATUS
Filed: 16 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. PURIT 54796 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 26 June, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Stanley Y. Wong, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the statement of petitioners' registered patent attorney, David G. Parkhurst, establishes that the non-signing inventor was sent, via Federal Express, a copy of the present reissue application but refused to sign the declaration naming him as a joint inventor with Fernando J. Isaza and Peter Doyle.

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

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

It is noted that the declaration filed with the present petition on 26 June, 2002, is defective in that it does not state that the

person(s) making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56. Rather, the declaration incorrectly acknowledges a duty to disclose all information material to examination of the application. A new oath or declaration in compliance with 37 CFR 1.63, 1.67, and 1.175 must be submitted when required by the examiner.

The application is being forwarded to Technology Center 3700 for examination in due course.

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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicants : Christen M. Anderson et al.
 Application No. : 09/811,132
 Filed : March 14, 2001
 For : PRODUCTION OF ADENINE NUCLEOTIDE
 TRANSLOCATOR (ANT), NOVEL ANT LIGANDS AND
 SCREENING ASSAYS THEREFOR

Examiner : Holly G. Schnizer
 Art Unit : 1653
 Docket No. : 660088.420D5
 Date : October 21, 2004

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

HS
12-1-04
D.K. TO ENTER

PETITION TO CORRECT INVENTORSHIP OF PATENT APPLICATION
PURSUANT TO 37 CFR § 1.48 (b)

Commissioner for Patents:

Applicants hereby request that the inventorship of the above-identified application be amended to delete William Clevenger, Sandra Eileen Wiley and Scott W. Miller. It is hereby acknowledged that the deleted inventors' invention is no longer being claimed in the above-identified application. The correct inventorship is as follows: Christen M. Anderson, Robert E. Davis, Tomas R. Szabo, Soumitra S. Ghosh, Walter H. Moos and Yazhong Pei.

0/26/2004 BSAYASII 00000018 09811132

1 FC:1460

130.00 DP

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,493,139	2002-12-10	09/811,138	2001-03-16	14982-61298

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Tim Tingkang Xia/	Date (YYYY-MM-DD)	2007-06-11
Name	Tim Tingkang Xia, Esq.	Registration Number	45242

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6493139 :
Issue Date: December 10,2002 :
Application No. 09811138 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 16,2001 :
Attorney Docket No. M-9844 US :

This is a decision on the electronic petition, filed June 11,2007 ,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 11,2007 .
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:122305

DATE : December 23, 2005

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction on Patent No.: 6806361

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:

GARY BENZION, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600


SPE: Gary Benzion Art Unit 1637



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

COPY MAILED
MAY 05 2006
OFFICE OF PETITIONS

In re Application of Jones et al. :
Application No. 09/811,155 : Decision on Petition
Filing Date: March 16, 2001 :
Attorney Docket No. 087809-0269968 :

This is a decision on the petition filed September 29, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **granted**.

Facts:

A non-final Office action was mailed on March 1, 2005.

Applicant states a reply was filed via facsimile transmission on September 1, 2005.

A Notice of Abandonment was mailed on September 9, 2005.

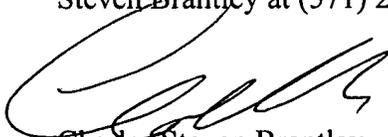
Discussion:

The evidence is sufficient to establish a reply and payment for a three-month extension of time were filed on September 1, 2005. Therefore, the application is not abandoned.

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

Technology Center Art Unit 2152 will be informed of the instant decision and the application will be further examined in due course.

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


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Paper No.
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JUN 30 2009
OFFICE OF PETITIONS

In re Application of :
Sreenivasan et al. : DECISION ON PETITION
Application No. 09/811,158 :
Filed: March 16, 2001 :
Attorney Docket No. 499.057US1:

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 filed February 9, 2009.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 14, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective August 15, 2008. A courtesy Notice of Abandonment was mailed on December 9, 2008.

In response, applicants timely filed the instant petition. Applicants contend a response was timely filed on December 1, 2008 with a certificate of mailing dated November 14, 2008 (and a three-month extension of time). In support thereof, applicants submit a copy of their return postcard date-stamped December 1, 2008, and a copy of the response as originally filed.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of December 1, 2008. Furthermore, the response and extension of time are made timely

by a certificate of mailing pursuant to 37 CFR 1.8 signed and dated November 14, 2008.

Further, the three-month extension of time, required to make the response timely, was charged to petitioner's Deposit Account on December 1, 2008.

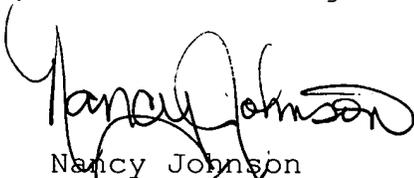
Accordingly, the Notice of Abandonment mailed December 9, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3627 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on December 1, 2008 (with certificate of mailing dated November 14, 2008).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant : Padmanabhan Sreenivasan : DECISION ON REQUEST FOR
Patent Number : 7627694 : RECALCULATION of PATENT
Issue Date : 12/01/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/811,158 : OF WYETH AND NOTICE OF INTENT TO
Filed : 03/16/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **870** 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.



PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
O'Neill et al. :
Application No. 09/811,218 : **ON PETITION**
Filed: March 16, 2001 :
Attorney Docket No. PC10723A :

This decision concerns the May 14, 2004 "Petition for Revival of Unintentionally Abandoned Application under 37 CFR 1.137(b)."

The petition is **GRANTED**.

On September 29, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period. A proposed amendment, filed on February 5, 2004 along with a request for a 2-month extension of time and the extension-of-time fee, did not place the application in condition for allowance and was not entered by the Examiner. The March 25, 2004 Advisory Action informed Applicant that the reply period for responding to the September 29, 2003 final Office Action would remain that set forth in that final Office action. Given that no further response was filed on or before March 29, 2004, the application became abandoned on March 1, 2004.

The instant petition encloses a Request for Continued Examination (RCE) and an amendment as the RCE "submission" required by 37 CFR 1.114; authorizes the USPTO to charge the \$770 RCE filing fee and the \$1,330 petition fee to Deposit Account No. 16-1445; and states in essence that the entire delay in responding to the September 29, 2003 final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE. Prosecution in the application is reopened.

The application file is being returned to Technology Center 1600 for continued examination.

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

RC Tang
Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

Robert D. Becker
Manatt, Phelps & Phillips LLP
1001 Page Mill Road
Building 2
Palo Alto, CA 94304

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AUG 30 2002

OFFICE OF PETITIONS

In re Application of	:	
Karapet Ablabutyan, et al.	:	
Application No. 09/811,237	:	DECISION GRANTING PETITION
Filed: March 15, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 23451-037	:	

This is a decision on the petition filed June 27, 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 6, 2002. However, the U. S. Patent and Trademark Office (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 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 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 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of December 5, 2002 accompanies this decision on petition.

There is no indication that a reply to the Office action of March 6, 2002 has been filed. Accordingly, the period for reply to that Office action 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.

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 3652 to await a reply to the non-final rejection, the period of which is restarted to run from the mailing date of this decision on petition as noted above.



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

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Kenneth Hsu	: DECISION ON REQUEST FOR
Patent Number	: 7626999	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/811,239	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1923** 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.



MEDICUS ASSOCIATES
4025 ARBOR RD.
JOPLIN MO 64804

MAILED

MAR 03 2009

OFFICE OF PETITIONS

In re Application of :
Park, et al. :
Application No. 09/811,248 : DECISION
Filed/Deposited: 16 March, 2001 :
Attorney Docket No. 368-011B :

This is a decision on the petition under 37 C.F.R. §1.57(a) filed on 16 October, 2008, seeking leave to amend the specification to include inadvertently omitted portions of the specification present in the prior-filed co-pending nonprovisional application to which this application is averred to have claimed benefit (under 37 C.F.R. §1.78) on filing on 16 March, 2001.

For the reasons stated herein, the petition is **DISMISSED**.

BACKGROUND

Application papers in the above-identified application were deposited on 16 March, 2001.

Petitioner avers that the Examiner's Office action of 16 June, 2008, contended that amendments to the specification filed on 15 May, 2008, sought to introduce new matter into the application and instructed Petitioner to seek relief pursuant to 37 C.F.R. §1.57(a) before the amendment could be considered.

Further, Petitioner avers that Office records reflect the instant application is a divisional application of Application No. 08/855,499, filed on 13 May, 1997 (and which issued as Patent No. 6,271,278 (the 278 patent) on 7 August, 2001), which is a continuation in part of Application No. 08/416,269, filed on 4 April, 1995 (and which issued as Patent No. 5,750,585 (the '585 patent) on 12 May, 1998).

Petitioner sets forth the paragraphs with which he seeks to amend, and the sources of that specification as previously referenced in the prior-filed nonprovisional application(s).

APPLICABLE LAW, RULES AND MPEP

Petition under 37 C.F.R. §1.57(a)

37 C.F.R. §1.57, Incorporation by reference, states:

(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under §1.55 for priority of a prior-filed foreign application, or a claim under §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under §1.55 or §1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

On 16 October, 2008, Petitioner filed, *inter alia*, the instant petition with fee, an amendment and what is averred to be copy of the previously omitted specification, which it also is averred was present upon deposit of the parent/previously-filed a divisional application of Application No. 08/855,499, filed on 13 May, 1997 (and which issued as Patent No. 6,271,278 (the 278 patent) on 7 August, 2001), which is a continuation in part of Application No. 08/416,269, filed on 4 April, 1995 (and which issued as Patent No. 5,750,585 (the '585 patent) on 12 May, 1998), to which application Office records reflect a priority claim has been made in the instant application.

Petitioner asserts that the portions of the specification were inadvertently omitted from the instant application; points to the prior filed nonprovisional and to the claim for priority thereto made in the specification of the instant application; seeks to obtain an incorporation by reference herein under the provisions of 37 C.F.R. §1.57(a); and requests that the application be amended to include the inadvertently omitted specification on the basis that the application as filed contained a prior-benefit claim under 37 C.F.R. §1.55 or §1.78.

ANALYSIS

Petitioner has included a proper priority claim the prior filed nonprovisional a divisional application of Application No. 08/855,499, filed on 13 May, 1997 (and which issued as Patent No. 6,271,278 (the 278 patent) on 7 August, 2001), which is a continuation in part of Application No. 08/416,269, filed on 4 April, 1995 (and which issued as Patent No. 5,750,585 (the '585

Application No. 09/811248

patent) on 12 May, 1998), in the specification filed with the application papers on 16 October, 2001.

Notably, however, while Petitioner evidences priority claim to the '278 patent, Petitioner does not (and apparently cannot) evidence such a claim to the '585 patent by virtue of Applicant's incorporation by reference of the contents of the nonprovisional application on filing of the present application.

Thus, a filing date of 16 October, 2001, may not be accorded the previously inadvertently omitted portions of the specification.

CONCLUSION

Thus, the petition cannot be granted because the prior-filed application (now patent) to which Petitioner seeks to claim priority was not the application identified and for which priority was claimed on deposit of the instant application.

In view thereof, the petition must be **dismissed**.

This application is being forwarded to the Examiner, Technology Center/AU 1796, for further processing in due course consistent with this decision.

Any questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.



Anthony Knight
Supervisor
Office of Petitions



Paper No. 12

MAY 25 2005

AGILENT TECHNOLOGIES
Legal Dept., Ms DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537

In re Application of :
Steven Swenson et al. : **DECISION ON PETITION**
Application No. 09/811,310 :
Filed: March 16, 2001 :
Attorney Docket No. 10010361-1 :

This is a decision on the petition filed July 6, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn, or in the alternative, to revive the application under 37 C.F.R. 1.137(b).

The petition to withdraw the holding of abandonment is GRANTED.

A restriction requirement Office action was mailed April 21, 2003, setting a thirty-day shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed June 15, 2004.

Petitioner asserts that a response was timely filed by facsimile transmission on May 8, 2003. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated May 8, 2003, 2) a copy of the sending unit's report confirming successful transmission of the Amendment on May 8, 2003 and 3) a declaration by Katherine Lopez Diangson stating that the "Amendment" was timely transmitted via facsimile on May 8, 2003.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it is transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

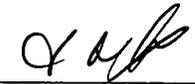
In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and

Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition, meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

The petition and fee paid to revive the application for unintentional abandonment under 37 C.F.R. 1.137(b) is unnecessary. The request for refund must be submitted in writing to the Office of Finance and accompanied by a copy of this decision.

The application file is being forwarded to the technical support staff for processing the Amendment. From there, it will be returned to the examiner for further prosecution.



Richard K. Seidel, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components



Paper No. 7

ALANA G. KRIEGSMAN, ESQ.
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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AUG 24 2001

OFFICE OF PETITIONS

In re Application of
Tilman
Application No. 09/811,348
Filed: March 16, 2001
Attorney Docket No. 40655-201257

:
: DECISION DISMISSING
: PETITION
:
:

This is a decision on the petition filed on May 11, 2001, in effect requesting that a Notice to File Missing Parts of Nonprovisional Application (“Notice”), mailed on April 24, 2001 for the above-identified application, be partially withdrawn to the extent that it refers to an omitted Figure 7A.

The petition is DISMISSED.

The application was filed on March 16, 2001. However, on April 24, 2001, the Initial Patent Examination Division (OIKE) mailed the Notice stating that the application had been accorded a filing date, and advising Applicant that the basic filing fee, the extra claims fee, and an oath or declaration were missing; that substitute drawings in compliance with 37 CFR 1.84 were required; and that Figure 7A described in the specification appeared to have been omitted from the filed application.

In response, the present petition was filed wherein Petitioner contends that 41 sheets of drawings including the allegedly omitted Figure 7A were filed on March 16, 2001 along with the remainder of the application. In support, the petition is accompanied by a copy of the postcard receipt which acknowledges receipt in the Office on March 16, 2001 of, *inter alia*, 41 sheets of drawings. The application is identified on the postcard receipt as “C/M# 40655-201257,” the attorney docket number for this application.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.¹ Such *prima facie* showing established by a postcard receipt is, of course, rebuttable and findings of fact in each case must be based on a consideration of all of the evidence in the Office file for the application.

A review of the papers filed on March 16, 2001, which are present in the official file, shows that Applicant indeed filed 41 sheets of drawings as itemized and listed on the postcard receipt. On the other hand, the Office also notes that the allegedly omitted Figure 7A is not among these 41 sheets of drawings in the official file. Rather, the official file contains Figures 1-6 (6 sheets), Figures 7B-7C (2 sheets), Figures 8A-8M (13 sheets), Figure 9 (1 sheet), Figures 10A-10R (18 sheets), plus another sheet labeled as “Figure 8A” and apparently identical to the other sheet containing Figure 8A. Based on all of the evidence available in the file, it is concluded

¹ See MPEP 503 (Rev. 1, Feb. 2000).

that Figure 7A was omitted from the application filed on March 16, 2001. It is apparent from the file that instead of supplying a drawing containing Figure 7A, Applicant filed a duplicate sheet containing Figure 8A.

Accordingly, the Notice mailed April 24, 2001 was correct and will not be withdrawn. The \$130 petition fee has been charged to Deposit Account No. 16-1435 as authorized.

In addition, the Office acknowledges receipt on June 25, 2001 of a signed declaration and power of attorney, and a statement claiming small entity status. The power of attorney has been entered and made of record. As also authorized, Deposit Account No. 16-1435 has been charged for the \$355 basic filing fee, the \$65 surcharge for late filing of the declaration, the \$63 for claims in excess of 20, and the \$240 for independent claims in excess of 3.

The application is being returned to OIPE for further processing with a filing date of March 16, 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



DLA PIPER RUDNICK GRAY CARY US LLP
153 Townsend Street
Suite 800
San Francisco, CA 94107-1907

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of	:	
WOLF	:	
Application No. 09/811,360	:	DECISION ON PETITION
Filed: March 16, 2001	:	TO WITHDRAW
Attorney Docket No. 2502440-991501	:	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 07, 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). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, “The application is being transferred to another attorney”, are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

Additionally, there now appears to be less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on April 05, 2006.

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 Patricia Volpe at 571-272-6825.


David Bucci
Petitions Examiner
Office of Petitions

cc: Jackson & Co., LLP
2410 Camino Ramon
Suite 225
San Ramon, CA 94583-4328



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DW 12-01

Christopher M. Rude
9200 Red-Wood Road, NE,
Apt. D324
Redmond, WA 98052

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DEC 14 2001

OFFICE OF PETITIONS

In re Application of
Zintel et al.
Application No. 09/811,362
Filed: 16 March, 2001
For: ML-BASED TEMPLATE LANGUAGE FOR DEVICES AND SERVICES

Dear Mr. Rude:

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).

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

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201



Paper No. 5

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

COPY MAILED

DEC 14 2001

OFFICE OF PETITIONS

In re Application of	:
Zintel, Gandhi, Gu, Pather,	:
Schlimmer, Rude, Weisman, Ryan,	: DECISION ACCORDING STATUS
Leach, Cai, Knight, and Ford	: UNDER 37 CFR 1.47(a)
Application No. 09/811,362	:
Filed: 16 March, 2001	:
Attorney Docket No. MSI-785US	:

This is in response to the petition filed under 37 CFR 1.47(a) on 2 August, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Christopher M. Rude, has refused to join in the filing of the above-identified application after having been sent an copy of the application papers. Specifically, the declaration of petitioners' registered patent attorney, Lewis C. Lee, establishes that the inventor was sent two copies of the application, but has failed to sign and return the declaration naming him as a joint inventor along with William M. Zintel, Amar S. Gandhi, Ye Gu, Shyamalan Pather, Jeffrey C. Schlimmner, Daniel R. Weisman, Donald R. Ryan, Paul J. Leach, Ting Cai, Holly N. Knight, and Peter S. Ford.

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

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

The application is being 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.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-13-07

Paper No.: _____

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No. 6985600 ⁶² (09/811366)

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**.

2 time being sent for a reply. Applicant + Attorney wants to know the status
A/S/A/P

Shank's

E. J. Jones
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-30-07

Paper No.: _____

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6985600 (09/811366)

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.

my
IFW have been in your presence since 6-14-06 and 8-13-07 *(twice)*

Thank You For Your Assistance

Certificates of Correction Branch *124*
Tel. No. 703-308-9390 ext. ~~124~~

Please Reply M/S/APP. Attorney & Applicant want to know the status *Old Cases*

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. SMITH, DAVID ET AL
Issue Date: 14 September 2004
Appl No.: 09/811,376
Filed: 16 March 2001
For: Left Handed Composite Media

:
:
: **DECISION GRANTING**
: **PETITION**
: *37 CFR 1.324*
:
:
:
:

This is a decision on the petition filed 15 August 2005 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.

Robert Pascal
Supervisory Patent Examiner
Art Unit 2817
Technology Center 2800

Greer Burns & Crane
300 S. Wacker Drive
Chicago IL 60606



#10

#10

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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JUN 07 2002

OFFICE OF PETITIONS

In re Application of
Martin M. Bednar; Cordell E. Gross;
G. Roger Thomas; Linda J. Gross
Application No. 09/811,384
Filed: December 20, 2000
Title: CO-ADMINISTRATION OF A
THROMBOLYTIC AND AN ANTI-CD18
ANTIBODY IN STROKE

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)
:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 15, 2001. The petition was recently forwarded to this office for consideration.

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 1600.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



MARTIN BEDNAR
33 BARLETT BAY ROAD
SOUTH BURLINGTON, VT 05403

COPY MAILED

JUN 07 2002

OFFICE OF PETITIONS

In re Application of
Martin M. Bednar; Cordell E. Gross; G. Roger Thomas; Linda J. Gross
Application No. 09/811,384
Filed: December 20, 2000
Title: CO-ADMINISTRATION OF A THROMBOLYTIC AND AN ANTI-CD18 ANTIBODY
IN STROKE

Dear MARTIN BEDNAR:

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 Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080



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

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
1300 I STREET NW
WASHINGTON DC 20005-3315

COPY MAILED

JUN 17 2002

OFFICE OF PETITIONS

In re Application of	:DECISION GRANTING PETITION
Edmar Saul Marcheze	:UNDER 37 CFR 1.137(f) AND
Application No. 09/811,429	:NOTICE RESETTING PERIOD FOR
Filed: March 20, 2001	:REPLY TO NONFINAL OFFICE
Attorney Docket No. 08144.0006	:ACTION

This is a decision on the petition filed June 4, 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 19, 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.

There is no indication that a reply to the Office of March 14, 2002 has been filed. Accordingly, the period for reply to the nonfinal Office action of March 14, 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 1742 to await a reply to the nonfinal Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.



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

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

COPY MAILED

OCT 19 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Katsuyuki Okeya :
Application No. 09/811,459 :
Filed: March 20, 2001 :
Attorney Docket No.: 500.39908X00 :

This is a decision on the petition, filed October 12, 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 August 12, 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.

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 2134 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹The 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

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.
09/811,506	03/20/2001	Mitsuharu Nakamura	040894-5647	8902

9629 7590 06/22/2005

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

EXAMINER

LE, THANH TAM T

ART UNIT PAPER NUMBER

2839

DATE MAILED: 06/22/2005

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

Paper No.

MORGAN LEWIS & BOCKUS LLP
1111 PENNSYLVANIA AVENUE, NW
Washington, DC 20004

JUN 22 2005

In re Application of: :
Mitsuharu Nakamura :
Serial No.: 09/811,506 :
Filed: March 20, 2001 :
Attorney Docket No.: 040894-5647 :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed February 28, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to T. C. Patel at (571) 272-2098.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



Connolly Bove Lodge & Hutz
1990 M Street, N.W. Suite 800
Washington, DC 20036-3425

COPY MAILED

NOV 29 2005

OFFICE OF PETITIONS

In re Application of
Rappy et al.
Application No. 09/811,538
Filed: March 20, 2001
Attorney Docket No. 22001-00005-US

:
:
: DECISION HOLDING PETITION IN
: ABEYANCE
:
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) and 37 CFR 1.702-1.705" filed October 12, 2004. Applicants request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of one hundred and forty-seven (147) days. The sole basis for this request is the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which

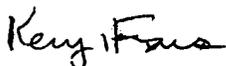
overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The office also notes that at the time of the mailing of allowance, the amount of PTA is zero (0) days with zero days of administrative delay and thirty-seven (37) days of applicant delay for three responses of more than three months. See 37 CFR 1.704(b). Accordingly, the Office delay after the mail date of the notice of allowance must be at least 37 days more than applicant delay to receive PTA at the time of the issuance of the patent.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. Any Office delays in issuance of the patent more than four months past the payment of the issue fee and more than three years after the filing date will be provided for in the issuance notification letter mailed prior to the issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7757.



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

cc: Pair calculation



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MAR 26 2007

OFFICE OF PETITIONS

Connolly Bove Lodge & Hutz LLP
1900 M Street N.W., Suite 800
Washington, DC 20036-3425

In re Application of
Reppy et al.
Application No. 09/811,538
Patent No.6.984,528 B2
Filed: March 20, 2001

:
:
:DECISION GRANTING IN PART PTA
REQUEST FOR RECONSIDERATION
:
:

This decision is in response to Applicant's 'REQUEST FOR RECONSIDERATION OF DECISION HOLDING PETITION IN ABEYANCE FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) and 37 CFR 1.702-1/705" filed on February 16, 2006 requesting that the USPTO review the PTA determination at the time of the issuance of the patent from a determination of 287 days to a determination of at least 626 day.

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 a determination of **407 days** of PTA. A copy of the adjusted PTA calculation is provided with this determination.

Applicants are given **THIRTY (30)** days to reply to this decision. No extensions of time will be granted under 37 CFR 1.136. After the thirty day period, the Office will *sua sponte* issue a certificate of correction reflecting this decision.

Applicants' dispute the reduction of the two miscellaneous incoming letters filed on January 3, 2005 and October 6, 2005 as well as the "312 amendment filed" on May 6, 2004. These reductions amounted to reductions pursuant to 37 CFR 1.704(c)(10) by periods of 120, 97, and 120 days respectively. Applicants assert that the Office erred in assessing a reduction for the 312 amendment because applicant did not file a 312-amendment. Rather, the paper submitted was a petition under 37 CFR 1.705(b). In addition, applicants assert that they also should not have been assessed any delays for the submission of the "miscellaneous incoming letters" on January 3, 2005 or the miscellaneous incoming letter" on October 6, 2005. Applicants assert that these particular papers are status request.

Applicants' arguments are deemed persuasive to the extent herein indicated. As for the one hundred and twenty (120) day reduction for the paper submission on May 6, 2004, applicants are correct that this 120-day reduction is in error. Specifically, a review of the file reveals that the paper in question was not a 312-amendment but a PTA request for reconsideration as asserted by applicants. 37 CFR 1.702(e) makes clear that an application for PTA is not considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, this 120-day reduction is in error.

As for the remaining reductions of 120 and 97 days, the Office notes that these reductions were for the submission of written status inquiries. The Office by notice has made clear that written status inquiries after the mail date of the notice of allowance is considered a failure to engage in

reasonable efforts to conclude prosecution of the application. See Clarification of 37 CFR 1.704(c)(10)- Reduction of Patent Term Adjustment for Certain Types of Papers filed After a Notice of Allowance has been Mailed 1247 OG 111 (June 26, 2001). The Office advises applicants to use the private PAIR system to determine the status of the application or in the alternative use the telephone. Accordingly, the reduction for the status inquiries will be maintained.

After the mailing of this decision, the Office will forward this application to the Office of Publications (Certificate of Correction) branch for a prompt issuance of the certificate of correction.

The Office has assessed the \$200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are required in deciding this request.

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

Kery A. Fries

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

cc: Adjusted PAIR calculation
DRAFT CERTIFICATE OF CORRECTION

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,984,528 B2
DATED : January 10, 2006
INVENTOR(S) : Reppy 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 (287) days

Delete the phrase "by 287 days" and insert – by 407 days--

Day : Friday
Date: 3/23/2007

Time: 09:38:57

PALM INTRANET**PTA Calculations for Application: 09/811538**

Application Filing Date:	03/20/2001	PTO Delay (PTO):	661
Issue Date of Patent:	01/10/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	374
Post-Issue Petitions:	0	Total PTA (days):	407
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	03/23/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
71.5	12/21/2005	PTA 36 MONTHS	198		
71	01/10/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	463		66
70	12/09/2005	DISPATCH TO FDC			
69	12/09/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
68	12/09/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
67	12/09/2005	TC RETURN TO PUBS			
66	06/04/2004	ISSUE FEE PAYMENT VERIFIED			
65	12/01/2005	RECEIPT INTO PUBS			
64	11/29/2005	PETITION DECISION - DISMISSED			
63	11/17/2005	RECEIPT INTO PUBS			
62	10/06/2005	MISCELLANEOUS INCOMING LETTER		97	
61	10/13/2005	RECEIPT INTO PUBS			
60	09/02/2005	PUBS CASE REMAND TO TC			
59	08/15/2005	RECEIPT INTO PUBS			
58	05/06/2004	PETITION ENTERED			
57	03/23/2005	RECEIPT INTO PUBS			
56	01/03/2005	MISCELLANEOUS INCOMING LETTER		120	
55	01/04/2005	RECEIPT INTO PUBS			
54	05/06/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	
53	09/10/2004	RECEIPT INTO PUBS			
52	06/04/2004	ISSUE FEE PAYMENT RECEIVED			
51	05/18/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
50	05/06/2004	WORKFLOW INCOMING PETITION IFW			

49	03/04/2004	MAIL NOTICE OF ALLOWANCE			
48	03/04/2004	MAIL EXAMINER'S AMENDMENT			
47	03/03/2004	ISSUE REVISION COMPLETED			
46	03/03/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	03/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
44	02/26/2004	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
43	02/23/2004	EXAMINER'S AMENDMENT COMMUNICATION			
42	02/23/2004	NOTICE OF ALLOWABILITY			
41	02/06/2004	DATE FORWARDED TO EXAMINER			
40	01/16/2004	AMENDMENT AFTER FINAL REJECTION			
39	02/05/2004	IFW AMENDED CASE PROCESSING COMPLETE			
38	01/16/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
37	02/05/2004	DATE FORWARDED TO EXAMINER			
36	01/16/2004	AMENDMENT AFTER FINAL REJECTION			
35	01/08/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	12/17/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	10/21/2003	MAIL FINAL REJECTION (PTOL - 326)			
32	10/20/2003	FINAL REJECTION			
31	08/05/2003	DATE FORWARDED TO EXAMINER			
30	07/29/2003	RESPONSE AFTER NON-FINAL ACTION			
29	05/07/2003	MAIL NON-FINAL REJECTION			
28	05/05/2003	NON-FINAL REJECTION			
27	03/14/2003	DATE FORWARDED TO EXAMINER			
26	03/06/2003	APPEAL BRIEF FILED			
25	01/06/2003	NOTICE OF APPEAL FILED		31	18
24	01/06/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	12/30/2002	MAIL ADVISORY ACTION (PTOL - 303)			
22	12/30/2002	ADVISORY ACTION (PTOL-303)			
21	12/20/2002	DATE FORWARDED TO EXAMINER			
20	12/04/2002	AMENDMENT AFTER FINAL REJECTION			
19	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
18	09/06/2002	MAIL FINAL REJECTION (PTOL - 326)			
17	09/06/2002	FINAL REJECTION			

16	06/28/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		4	14
15	07/02/2002	DATE FORWARDED TO EXAMINER			
14	06/24/2002	RESPONSE AFTER NON-FINAL ACTION		2	13
13	03/22/2002	MAIL NON-FINAL REJECTION			
12	03/22/2002	NON-FINAL REJECTION			
11	02/17/2002	DATE FORWARDED TO EXAMINER			
10	02/02/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
9	01/15/2002	MAIL RESTRICTION REQUIREMENT			
8	01/14/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
7	11/09/2001	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	05/11/2001	PRELIMINARY AMENDMENT			
5	10/19/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	06/12/2001	APPLICATION DISPATCHED FROM OIPE			
3	05/30/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/20/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KILPATRICK STOCKTON LLP
SUITE 800
700 - 13TH STREET, N.W.
WASHINGTON, DC 20005

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Chafer, Charles M. :
Application No. 09/811,539 : ON PETITION
Filed: March 20, 2001 :
Attorney Docket No. ENC0002-US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice) mailed December 2, 2003, which set a shortened statutory period for reply of one (1) month. Accordingly, the above-identified application became abandoned on January 3, 2004. A Notice of Abandonment was mailed on July 28, 2004.

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

This matter is now being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries *regarding this decision* should be directed to the undersigned at (703) 306-0482, or at (571) 272-3282 after September 28, 2004.

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



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George T. Marcou
Kilpatrick Stockton LLP
Suite 800
700 – 13th Street, N.W.
Washington, DC 20005

MAIL

OCT 15 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of:
Charles M. CHAFER
Application No. 09/811,541
Filed: March 20, 2001
For: SYSTEM AND METHOD FOR PUBLIC
PARTICIPATION IN SPACE MISSIONS

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 26, 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.

A review of the file reveals that a non-final Office Action was mailed on April 28, 2004. Therefore, the time for response, including the maximum extendable period, to the Office action mailed April 28, 2004, continues to run until October 28, 2004. Thus, as of the mailing of this decision, less than thirty days remain in the period for response to the Office action.

Accordingly, the request is **DENIED**.

Further communications will continue to be addressed to the address above.



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



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,546	03/20/2001	Karl Kolter	51284	9100
26474	7590	11/05/2009	EXAMINER	
NOVAK DRUCE DELUCA + QUIGG LLP			SILVERMAN, ERIC E	
1300 EYE STREET NW			ART UNIT	PAPER NUMBER
SUITE 1000 WEST TOWER			1618	
WASHINGTON, DC 20005			MAIL DATE	DELIVERY MODE
			11/05/2009	PAPER

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

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



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NOV 05 2009

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of: :
Kolter et al. :
Serial No.: 09/811,546 : PETITION DECISION
Filed: March 20, 2001 :
Attorney Docket No.: 51284 :

This is in response to the petition filed September 24, 2009 under 37 CFR § 1.181, requesting that the finality of the Office action of September 17, 2009 be withdrawn.

BACKGROUND

The examiner mailed an Advisory Action on June 18, 2009. In this Advisory Action, the examiner indicated that the claim amendments filed after final Office action [on April 23, 2009] would not be entered because they raised new issues that would require further consideration and/or search (see box 3(a) of the Advisory Action form, PTOL-303).

On August 25, 2009, applicants filed a Request for Continued Examination (RCE) along with the appropriate fees. In this RCE, applicants specifically fulfilled the requirements of 37 C.F.R. § 1.114 (submission) by indicating that the submission was filed on May 21, 2009 and that said submission, containing claim amendments was to be considered for examination.

On September 17, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply.

In response thereto, applicants filed this petition on September 24, 2009 under 37 CFR § 1.181, requesting that the finality of the Office action of September 17, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on September 24, 2009, applicants argue that the final Office action instituted by the Examiner on September 17, 2009 was improper and premature due to the fact that the examiner refused entry of the claim amendments after final Office action as indicated by the Advisory Action mailed by the examiner on June 18, 2009.

To support these contentions, applicants specifically cite MPEP § 706.07(b). MPEP § 706.07(h) (VIII) is cited as well :

MPEP 706.07(h) (VIII) states:

The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP 706.07(b) for making a first action final in a continuing application are met...

MPEP 706.07(b), third paragraph states:

However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of ne matter was raised.

A review of the prosecution history of this case clearly shows that the examiner refused entry of the amendments filed after final Office action for raising new issues that would require a new consideration and/or search as indicated by the Advisory Action form. Made clearly evident by the MPEP, when a decision to refuse entry of an amendment filed after final Office action is made by the examiner due to an issue which would require a new consideration or search, the next action mailed by the examiner in reply to the filing of an RCE is *precluded from finality*.

Hence, applicants' points are well-taken and found persuasive. It is decided that the final Office action mailed on September 17, 2009 was, in fact, premature and in error. The finality of said rejection is hereby WITHDRAWN in favor of applicants.

DECISION

The petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.



Remy Yucel
Director, Technology Center 1600



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OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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APR 24 2006

OFFICE OF PETITIONS

In re Patent of :
Cannon et al. :
Application No. 09/811,614 : DECISION
Filed: March 20, 2001 : ON PETITION
Attorney Docket Number: :
CANNON 121-109-65 :

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed February 23, 2006.

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 "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 18, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on August 19, 2005. A Notice of Abandonment was mailed December 16, 2005.

Applicant files the instant petition and Amendment in response to the final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (1).

As to item (1), Applicant has not submitted a proper reply to the May 18, 2005 Office action. The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

Questions regarding the Amendment should be directed to the Examiner.

Further correspondence with respect to this Decision 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 decision should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



Paper No. 5

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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DEC 17 2001

In re Application of :
Charles-Guillaume Blanchon :
Application No. 09/811,617 :
Filed: 20 March, 2001 :
Attorney Docket No. 109000 :

OFFICE OF PETITIONS
LETTER

This letter is in response to the paper styled "Request for Correction of PALM Records" filed on 4 October, 2001, requesting correction of the filing date of the above-identified application.

The petition is **GRANTED**

The application was filed on 20 March, 2001. The specification consisted of 10 pages of French text and three (3) sheets of drawings. On 21 May, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring, *inter alia*, an English translation of the application. In response, on 1 June, 2001, applicants filed, *inter alia*, 14 pages of specification, including claims and an abstract. It appears that the application was inadvertently assigned the date the English translation was filed as the filing date.

The French language specification filed on 20 March, 2001, has been located in the file. Accordingly, the application file will be forwarded to OIPE for correction of the filing date to 20 March, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

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

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)
6,554,161	2003-04-29	09/811,633	2001-03-20	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/James D. Wright/	Date (YYYY-MM-DD)	2007-09-08
Name	James D. Wright	Registration Number	43291

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

Privacy Act Statement

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

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

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



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In re Patent No. 6554161 :
Issue Date: April 29,2003 :
Application No. 09811633 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 20,2001 :
Attorney Docket No. P66510US0 :

This is a decision on the electronic petition, filed September 8,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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



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KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

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MAR 25 2004

In re Application of :
Takatsuka, et al. :
Application No. 09/811,660 :
Filed: March 19, 2001 :
Attorney Docket No. 36856.447 :

OFFICE OF PETITIONS

ON PETITION

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

The petition is GRANTED.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed May 15, 2003. Accordingly, this application became abandoned on August 16, 2003.

The file is being forwarded to Technology Center 2800 for processing of the RCE, filed January 15, 2004.

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

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



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Cary S. Kappel
Davidson, Davidson & Kappel LLC
14th Floor
485 Seventh Avenue
New York, NY 10018

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Mustafa Erhan Say :
Application No. 09/811,711 : **ON PETITION**
Filed: 3/19/2001 :
Attorney Docket No. 517-1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed 22 June 2005, to revive the above-identified application.

The petition is **DISMISSED as moot for the reasons set forth below.**

The above identified application, filed on March 19, 2001, and a restriction requirement was mailed on January 12, 2004 between the method for auctioning products (claims 1-11) and the method for providing information (claims 12-20). Applicant elected method claims 1-11 for further prosecution, and properly indicated claims 12-20 as withdrawn from further consideration.

Prosecution on the merits was closed with the final rejection that was mailed on October 19, 2004. Applicant filed a request for continued examination with an amendment on April 18, 2005 along with an extension of time for three months. The amendment filed with the request did not include the proper claim status identifiers for claims 12-20, which were previously withdrawn from consideration after restriction.

A Notice of Non-compliance was mailed on April 25, 2005 setting a one (1) month time period for reply. A reply was received on May 13, 2005 and a second Notice of Non-compliance was mailed on May 31, 2005, which stated that the period for reply continues to run from the mailing date of the prior Notice of Non-Compliant Amendment. The application is therefore not abandoned and the applicant is permitted to purchase extensions of time up to five (5) months. In view thereof the petition fee is being refunded, and the petition will be treated as a request for an extension of time.

This matter is being referred to Technology Center AU 3627 for evaluation of the reply received on June 22, 2005.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Karen Cressy for

Brian Hearn

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy



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RALPH E. JOCKE
Walker & Jocke LPA
231 SOUTH BROADWAY
MEDINA OH 44256

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Drummond, et al. :
Application No. 09/811,718 : DECISION ON PETITION
Filed: March 19, 2001 :
Dkt. No.: D-1120 R2 :

The above-identified application has been directed to the Office of Petitions for consideration of the "Request for Clarification of the Record," filed October 8, 2003. This matter is being treated under 37 CFR 1.10(e) to accord a receipt date of March 23, 2003 to an appeal brief, copy of which was submitted October 8, 2003.

The petition is GRANTED TO THE EXTENT INDICATED ION HEREIN.

Applicants allege an appeal brief was timely filed May 23, 2003 in response to the Notice of Appeal filed April 9, 2003. Applicants have provided a copy of a return postcard bearing a USPTO receipt stamp date of May 27, 2003. Applicants have provided a copy of the appeal brief, which includes a certificate of mailing in accordance with 37 CFR 1.10.

In accordance with 37 CFR 1.10(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 Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" 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 Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition does not satisfy 37 CFR 1.10(e)(3) in that a copy of the Express Mail label showing a "date-in" has not been provided.

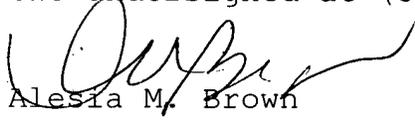
However, in view of the postcard receipt, the appeal brief is deemed to have been timely received May 27, 2003, the date indicated on the copy of the return postcard submitted herewith.

The original appeal brief referenced by petitioners has not located in the application file. The copy submitted October 8, 2003 has been entered into the record.

Petitioners are entitled to a refund of the \$1,480.00 extension of time fee charged October 10, 2003. As petitioners have not expressly requested a refund of any unnecessary fees, petitioners may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application file is being forwarded to Technology Center 3600 for consideration of applicants' request filed December 13, 2006.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

Any questions regarding this decision should be directed to Supervisory Patent Examiner Thomas Dixon at (571) 272-6803.

Katherine Malecki
for Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

WC/td 4/24/08

TC



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

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of :
Yong-Jun Lee et al. :
Application No. 09/811,789 :
Filed: January 12, 2001 :
Attorney Docket No. 3138/FLK :

ON PETITION

This is a decision on the petition filed November 14, 2005 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 August 8, 2005 for failure to timely pay the issue fee on or before August 5, 2005. Accordingly, a Notice of Abandonment was mailed October 25, 2005.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 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 37 CFR 1.137(c).



#6

"Express Mail" mailing label number: EL868560190US

Date of Deposit: August 2, 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 Box Missing Parts, Commissioner for Patents, Washington D.C. 20231.

Typed or Printed Name of Person Mailing Paper or Fee: Patricia Aguillon

Signature: Patricia Aguillon

PATENT
Docket No. P1283

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: CHAK LEUNG
KENT LEUNG
HOWIE TRANG
DAR-QWEI (DAVID) FUH
STANLEY YU

RECEIVED
OCT 10 2001
OFFICE OF PETITIONS

SERIAL NO.: 09/811,834 EXAMINER: UNKNOWN

FILED: MARCH 16, 2001 ART UNIT: 2873

FOR: REFLECTOR ASSEMBLIES FOR OPTICAL CROSS-CONNECT SWITCHES AND SWITCHES FABRICATED THEREFROM

**BOX MISSING PARTS
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231**

PETITION UNDER 37 C.F.R. §1.47

Dear Sir:

As a Supplemental Response to the Notice to File Missing Parts of a Nonprovisional Application dated May 31, 2001, it is respectfully requested that the requirement for the filing of the oath or declaration of inventor Howie Trang be satisfied in view of this Petition Under 37 C.F.R. §1.47.

STATEMENT OF FACTS

1. The U.S. Patent and Trademark Office issued a Notice to File Missing Parts on May 31, 2001, stating in pertinent part, that the Oath or Declaration was missing or unsigned.
2. Inventor Howie Trang is no longer employed by the proposed assignee, Blue Sky Research of Milpitas, California.

3. It is believed that Howie Trang terminated his employment under less than amicable circumstances and would therefore be uncooperative in the execution of the required documents for patent prosecution.
4. While the documents were sent to Mr. Trang to his last known address by the attorney of record for the proposed assignee, it is believed that he maintains his refusal to sign the documents, because they have not been received by either the proposed assignee or its attorney of record.
5. An effort has been made to contact Mr. Trang by telephone, however, that as met with negative results because he has an unpublished number.
6. Proof of the pertinent facts is attached hereto.
7. The required petition fee is submitted herewith.

EXHIBITS IN SUPPORT OF PETITION

1. Notice to File Missing Parts with mailing date of May 31, 2001 (Exhibit A).
2. Copy of Victor Flores letter to Ron E. Grubman dated July 5, 2001 (Exhibit B).
3. Copy of letter from proposed assignee, Blue Sky Research, to its attorney of record regarding the termination of the employment of Howie Trang. (Exhibit C)
4. Copy of letter to Mr. Howie Trang from Ms. Kathleen Hearne Gaisford dated July 5, 2001, enclosing the Declaration and Power of Attorney for signature and return. (Exhibit D)
5. Declaration of Victor Flores in Support of Petition to the Commissioner under 37 C.F.R. §1.47(a). (Exhibit E.)

STATEMENT OF THE CIRCUMSTANCES

This application was filed on March 16, 2001, with missing parts. One of the missing parts was the Oath and Declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed from the Patent Office on May 31, 2001, copy of which is attached as Exhibit A.

A letter and Declaration form was sent via Federal Express to the proposed assignee for signature by Howie Trang and his co-inventors on July 5, 2001.

There were five inventors, namely: Chak Leung, Kent Leung, Howie Trang, Dar-Qwei (David) Fuh, and Stanley Yu. Four of the five inventors have signed the Declaration and

returned the signed Declaration to LaRiviere, Grubman & Payne, LLP. The missing parts, including the signed Declaration of Victor Flores is filed herewith.

CONCLUSION

In view of the unwillingness of Mr. Howie Trang to execute the Oath or Declaration required for filing the present patent application, the co-inventors and their Assignee, Blue Sky Research, are believed to be entitled to make such application on behalf of Howie Trang and as agent for their co-inventor.

Respectfully submitted,



Victor Flores
Reg. No. 29,638

VF/pa
August 2, 2001
LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. Box 3140
Monterey, CA 93942
(831) 649-8800



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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JAN 11 2002

OFFICE OF PETITIONS

LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. BOX 3140
Monterey, CA 93942

In re Application of
Leung, et al.
Application No. 09/811,834
Filed: March 16, 2001
Attorney Docket No. P1283
For: REFLECTOR ASSEMBLIES FOR
OPTICAL CROSS-CONNECT SWITCHES
AND SWITCHES FABRICATED
THEREFROM

:
:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:
:
:

This is in response to the petition under 37 CFR 1.47(a) filed August 2, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 16, 2001 without an executed oath or declaration and naming Chak Leung, Kent Leung, Dar-Qwei(David) Fuh, Stanley Yu, and Howie Trang as the joint inventors.

Accordingly, on May 31, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

The instant petition was filed was in response.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks items (1) and (2).

As to item (1), the petition lacks any supporting evidence that non-signing inventor was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refuses

Application No. 09/811,834

to sign the oath or declaration. Petitioner must establish that the application papers were sent to the non-signing inventor at the inventor's last known address and that the inventor refuses to sign the oath or declaration after having been presented with the application papers.

Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of a declaration or affidavit. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Petitioner should include copies of dated cover letters and/or mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* attempt has been made to present the application papers (specification, claims, and drawings) to the non-signing inventor. The evidence submitted by petitioner has only established that the inventor was sent a copy of a an assignment agreement and a declaration.

A copy of the application papers (specification, claims, and drawings) should be sent to the non-signing inventor at the non-signing inventor's last known address, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner's attention is directed to MPEP 409.03(d) for further guidance.

As to item (2), the declaration submitted with the instant petition is not acceptable as it does not appear to be complete. The declaration, consisting of two (2) pages, does not include the name, citizenship, and address of non-signing inventor Trang.

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

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

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.


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



#8

"Express Mail" mailing label number: EV062926457US

Date of Deposit: March 11, 2002

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 Box DAC Commissioner for Patents, Washington D.C. 20231.

Typed or Printed Name of Person Mailing Paper or Fee: Patricia Aguillon

Signature: Patricia Aguillon

PATENT
Docket No. P1283

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: CHAK LEUNG
KENT LEUNG
HOWIE TRANG
DAR-QWEI (DAVID) FUH
STANLEY YU

SERIAL NO.: 09/811,834 EXAMINER: UNKNOWN

FILED: MARCH 16, 2001 ART UNIT: 2873

FOR: REFLECTOR ASSEMBLIES FOR
OPTICAL CROSS-CONNECT AND
SWITCHES FABRICATED THEREFROM

**BOX DAC
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231**

**REQUEST FOR RECONSIDERATION OF
PETITION UNDER 37 C.F.R. §1.47(a)**

Dear Sir:

In response to the Decision Refusing Status Under 37 C.F.R. §1.47(a) mailed on January 11, 2002, from the Office of Petitions, Applicants respectfully request reconsideration of the Petition in view of the information submitted herein.

As to Item 1

The Examiner states that the petition as originally filed "lacks any supporting evidence that non-signing inventor was ever presented with a copy of the application papers (specification, claims and drawings), or, having been present with the application papers, refuses to sign the oath or declaration" The Applicants' herewith submit evidence of the

inventor's refusal to join in the application in compliance with the Petitions Examiner's suggestions.

On February 6, 2002, Applicants' attorney of record mailed to the non-signing inventor, Mr. Howie Trang, the Supplemental Declaration and Power of Attorney for Patent Application, copy of the patent application as filed on March 16, 2001, which included the specification, claims, drawings and abstract. The aforementioned items were mailed with a cover letter of instructions requesting that the signed documents be returned no later than February 28, 2002, via Certified Return Receipt Requested and addressed as follows: Mr. Howie Trang, 3767 Masters Court, San Jose, California 95138, this is the last known address that Applicants' attorneys had for Mr. Trang. (A copy of the letter with enclosures is attached hereto as Exhibit A).

As to Howie Trang's last known address, on December 20, 2001, a letter was sent to Mr. Trang via Certified Mail at 3767 Masters Court, San Jose, California 95138. On December 28, 2001 we received a certified mail return receipt signed by Mr. Trang verifying his receipt at this address. (A copy of the letter and return receipt are attached hereto as Exhibit B).

On February 27, 2002, Applicants' attorneys received the Certified Mail package of documents back from the U.S. Postal Service marked "Unclaimed" and indicating delivery attempts made on February 8, 2002, February 14, 2002 and February 23, 2002. This verifies that Applicants' attorney has made a diligent effort to provide Mr. Trang with copies of the Supplemental Declaration and Power of Attorney, specification, claims, drawings and abstract. (A copy of the Certified Mailing envelope indicating delivery attempts by the U.S. Postal Service is attached hereto as Exhibit C).

As to Item 2

Applicants have provided proof herein that the omitted inventor's, conduct constitutes a refusal to sign as set forth in MPEP 409.03(d) and detailed in the Examiner's decision on the §1.47(a) petition. Applicants have shown that: 1) A diligent effort has been made to provide the non-signing inventor with copies of the Supplemental Declaration and Power of Attorney, specification, claims, drawings and abstract.

Applicants herein enclose a Supplemental Declaration and Power of Attorney listing non-signing inventor, Howie Trang, and signed by all other inventors. An additional copy of

✓
said Supplemental Declaration and Power of Attorney are enclosed herewith to be filed in this matter. (See Exhibit D).

CONCLUSION

In view of the filing date of the application, March 16, 2001, and the unlikeliness that Mr. Howie Trang will execute and return the documents required for filing the present patent application, and having met the requirements as indicated in the Examiner's decision on the Petition, the co-inventors and their Assignee, Blue Sky Research, respectfully request reconsideration and granting of their Petition Under 37 C.F.R. §1.47(a).

Respectfully submitted,



Victor Flores
Reg. No. 29,638

VF/rm
March 11, 2002
LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. Box 3140
Monterey, CA 93942
(831) 649-8800



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

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JUN 20 2002

OFFICE OF PETITIONS

LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. BOX 3140
Monterey, CA 93942

In re Application of
Leung, et al.
Application No. 09/811,834
Filed: March 16, 2001
Attorney Docket No. P1283
For: REFLECTOR ASSEMBLIES FOR
OPTICAL CROSS-CONNECT SWITCHES
AND SWITCHES FABRICATED
THEREFROM

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

This is in response to the renewed petition under 37 CFR 1.47(a) filed March 11, 2002.

The petition is GRANTED.

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

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

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWIE TRANG
3767 MASTERS COURT
SAN JOSE, CA 95111-1560

COPY MAILED

JUN 20 2002

OFFICE OF PETITIONS

In re Application of :
Leung, et al. :
Application No. 09/811,834 : LETTER
Filed: March 16, 2001 :
Attorney Docket No. P1283 :
For: REFLECTOR ASSEMBLIES FOR :
OPTICAL CROSS-CONNECT SWITCHES AND :
SWITCHES FABRICATED THEREFROM :

Dear Sir:

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

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

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

Alesia M. Brown for

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

CC: LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. BOX 3140
Monterey, CA 93942



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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KATTEN MUCHIN ZAVIS ROSEMAN
C/O PATENT ADMINISTRATOR
525 WEST MONROE STREET, SUITE 1600
CHICAGO, IL 60661-3693

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JUN 2 1 2004

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Charles J. Link et al :
Application No. 09/811,842 :
Filed: March 19, 2001 :
Attorney Docket No. P04465US1 :

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

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

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

The file will be forwarded to Technology Center AU 1636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

cc:

David W. Clough
Howrey, Simon, Arnold & White, LLP
321 N. Clark Street, Suite 3400
Chicago, IL 60610

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 : June 18, 2004
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of Application No. 09/811,842

COPY MAILED

JUN 21 2004

OFFICE OF PETITIONS

Applicant(s) : Charles J. Link et al
Application No. : 09/811,842
Filed : March 19, 2001

The above-identified application has been assigned Patent No. 6,753,142 and an issue date of June 22, 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 : June 22, 2004.

"All reference to Patent No. 6,753,142 to Charles J. Link et al of Iowa for METHODS AND COMPOSITIONS FOR ELUCIDATING RELATIVE PROTEIN EXPRESSION LEVELS IN CELLS appearing in the Official Gazette of June 22, 2004 should be deleted since no patent was granted."

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

cc: 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 K. Greene, PK3-910



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 031104

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
& POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAR 23 2004

In re Application of:	:	
William Ziegler, et al.	:	NOTICE OF WITHDRAWAL
Serial No.: 09/811856	:	FROM ISSUE
Filed: March 19, 2001	:	UNDER 37 CFR § 1.313
Attorney Docket No.: 18133-058	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed July 11, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Lynn Feild at (571) 272-2092.

The above-identified application is being forwarded to the examiner for prompt appropriate action.



 Richard K. Seidel, Director
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components



Paper No. 4

LERNER AND GREENBERG, P.A.
PATENT ATTORNEYS AND ATTORNEYS AT LAW
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED

NOV 15 2001

In re Application of
Jagielski et al.
Application No. 09/811,879
Filed: March 19, 2001
Attorney Docket No. GR 00 P 8065

OFFICE OF PETITIONS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 10, 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 Klaus Worofka 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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET, 14TH Street Floor
Irvine, California 92614

HR



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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 6,911,227
Application No. 09/811,901
Filed: March 19, 2001
Issued: June 28, 2005
Attorney Docket No. 262/304US

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ON PETITION

This is a decision on the petition filed December 4, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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



Paper No. 10

PEPPER HAMILTON LLP
600 FOURTEENTH STREET, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Sebti, et al.
Application No. 09/811,945
Filed: March 21, 2001
Attorney Docket No. 114205.1301

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed March 1, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed May 30, 2001, which set forth an extendable two (2) month period for reply. On October 1, 2001, petitioner obtained an extension of time within the second month and filed a response to the Notice that included a declaration and the payment of \$65.00 surcharge. The Notice also required, however, that substitute drawings be filed, but the record does not reflect that petitioner filed any drawings with the October 1, 2001, filing. A "Notice of Incomplete Reply" was mailed on October 26, 2001, indicating that substitute drawings were still required and informing petitioner that the period for reply remained as set forth in the "Notice to File Missing Parts of Nonprovisional Application." No further communications were mailed or filed until the instant petition filed March 1, 2001.

The petition for extension of time filed March 1, 2002, is noted, however; it cannot be granted because the request was made outside the maximum statutory period set for reply. The fee remitted for the extension of time will be refunded in due course.

The address as cited on the instant petition differs from the address of record. Although a copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions are received to the contrary:

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

In re Application Sebti, et al.
09/811,945

Page 2

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

cc: Katten, Muchin, Zavis
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3963



Saliwanchik, Lloyd & Saliwanchik
A Professional Association
PO Box 142950
Gainesville, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of
Sebti et al
Application No. 09/811,945
Filed: March 21, 2001

:
:
: **DECISION GRANTING-IN PART PTA**
:
:

This letter is in response to APPLICANTS' "APPLICATION FOR PATENT ADJUSTMENT UNDER 37 CFR 1.705(b)" timely¹ filed on December 5, 2005 requesting that the Office adjust the PTA determination at the time of the notice of allowance from a determination of 64 days to a determination of 207 days.

The letter submitted by Patentees is **GRANTED IN PART**. The Office will add additional PTA to the determination at the time of the mailing of the notice of allowance and such determination will be adjusted to a determination of one hundred and forty (140) days. The Office will adjust the PTA calculation to reflect this determination.

Applicants assert that they are entitled to a determination of 207 days at the time of the mailing of the notice of allowance. Applicants assert that the Office delayed 546 days under 37 CFR 1.702(a)(1). Applicants assert that they delayed by a period of 337 days. Applicants assert that the period of abandonment amounted to a reduction of 280 days. In addition, applicants assert that they delayed by a period of thirty (30) days under 37 CFR 1.704(b) for the submission of the response to the sequence listing requirement on December 21, 2002. In addition, applicants assert a twenty-nine day delay also under 37 CFR 1.704(b) for the submission of the reply on June 23, 2005.

Applicants arguments are persuasive to the extent herein indicated. The Office agrees with applicants determination of 546 days under 37 CFR 1.702(a)(1). In addition, the Office agrees with applicants reduction of 29 days and 30 days under 37 CFR 1.704(b). The Office disagrees with applicants reduction of 280 days under 1.704(c)(3). The Office determined that the reduction amounts to 311 days.² See 37 CFR 1.704(c)(10). In addition, applicant failed to mention the 36-reduction for the submission of the supplemental response on February 12, 2004, a reduction pursuant to 37 CFR 1.704(c)(8). Accordingly, the proper amount of PTA at the time of the mailing of the notice of allowance is 143 (546-29-30-311-36=140).

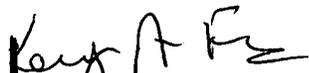
¹Issue fee was paid on Dec. 5, 2005.

²The reduction began on July 31, 2001 (day after abandonment date) and ended on the June 6, 2002, date of the decision reviving the application.

The Office notes that this determination does not include any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b). Moreover, this determination does not include any reductions to patent term adjustment under 37 CFR 1.704(c)(10). These determinations will be included in the final PTA determination that is mailed to applicants in the Issue notification letter and displayed in PAIR.

The Office has assessed the \$200.00 fee. No additional fees are required in determining this application for PTA.

Any questions related to this decision can be addressed to Alesia Brown, Office of Petitions Policy at 571-272-3205.



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

cc: PAIR calculation



Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02451-1914

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DEC 01 2006

OFFICE OF PETITIONS

In re Application of

Chan :
Application No. 09/811,953 :
Patent: 7,108,700 : NOTICE
Filed: March 19, 2001 :
Issued: September 19, 2006 :
Attorney Docket Number: MIT-53 CON 5 :

This is a notice regarding your request filed on September 22, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

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

This file is being forwarded to the Files Repository.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



Paper No. 11

KNOBBE MARTENS OLSON & BEAR LLP
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FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 26 2003

OFFICE OF PETITIONS

In re Application of
Brock, et al.
Application No. 09/811,978
Filed: March 19, 2001
Attorney Docket No. JONAT.008A
For: COMPUTER SERVER MOUNTING
APPARATUS

:
:
:
:
: 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 August 4, 2003 (certificate of mailing date July 31, 2003), 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 AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/190,153, filed March 17, 2000.

The instant pending nonprovisional application was filed on March 19, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/190,153, which was filed on March 17, 2000, and for which priority is claimed.¹ While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5) is not included the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be

¹ March 17, 2001 was a Saturday. Thus petitioner had until the first business day after the weekend -- Monday, March 19, 2001-- to file the nonprovisional application.

required to accept a late claim for priority under 37 CFR 1.78(a)(6).² In the instant case, the Office noted the claim for priority of provisional Application No. 60/190,153 in the oath or declaration, as shown by its inclusion on the filing receipt.

In view of the above, the \$1,300 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

It is noted the part of the amendment relating to the benefit claim 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 de Seversky, *supra*. Note also MPEP 201.06(c).

Accordingly, petitioner must submit an amendment³ deleting the incorporation by reference statement in the benefit claim.

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712. 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 AU 3632 for processing the amendment filed August 4, 2003. However, as stated above, the examiner will not consider the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional Application No. 60/190,153, filed on March 17, 2000, until an acceptable amendment relating to benefit is filed.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

² 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

³ 37 CFR 1.121



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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LUDWIGSHAFEN 69056 DE GERMANY

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Bruchman et al. :
Application No. 09/811987 :
Filing or 371(c) Date: 03/19/2001 : ON PETITION
Attorney Docket Number: 12075 :

This is a decision on the Petition for Revival of Application for patent Abandoned Unavoidably, filed February 23, 2007.

This Petition under 37 CFR 1.137(a) is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final office action mailed May 19, 2005. The final office action indicated that no claims were allowed.

Applicant filed an amendment on July 15, 2005; however, the amendment failed to place the application in condition for allowance. Applicant was so Notified in an Advisory Action mailed August 10, 2005.

Applicant filed a Notice of Appeal on August 18, 2005, and a Brief in Support of the Appeal on October 18, 2005. The Brief was Non-Compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief mailed January 24, 2006. Applicant filed an Amended Appeal Brief on February 3, 2006. The Examiner filed an Answer to the Appeal Brief on April 20, 2006.

The Board of Patent Appeals and Interferences ("BOARD") issued a Decision on Appeal on August 22, 2006, affirming the decision of the Examiner.

Applicant filed an Amendment After Appeal (In Accordance with MPEP 1214.07). The Amendment was not entered because prosecution was closed and the Amendment was not suggested in an explicit statement by the Board under 37 CFR 41.50(c).

A Notice of Abandonment was mailed January 12, 2007, indicating as the reason for abandonment the decision of the Board, and that the period for seeking court review had expired and no claims were allowed.

The present petition

Applicant files the present petition and asserts that the application was unavoidably abandoned because, after the decision of the Board, and based upon the prosecution history of the application, Applicant's November 24, 2006 Amendment placed the application in condition for allowance. Applicant avers that after filing the November 24, 2006 Amendment, Applicant was informed that the Amendment introduced issues under 35 U.S.C. 112. Applicant avers that it was unaware of any issues with regards to 35 U.S.C. 112 until after the November 24, 2006 Amendment was filed and, as such, the delay in filing the required reply was unavoidable.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (3) as set forth above.

Applicable Law, Rules and MPEP

As to item (1), Applicant asserts that a continuing application has been filed; however, Office records do not indicate that a continuing application has been filed, nor has Applicant provided the application no. of the continuing application.

As to item (3), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

[t]he word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

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

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982)). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)). However, “The question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.²

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

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

The statute requires a “showing” by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Analysis

Applicant here asserts that the application was unavoidably abandoned because the Amendment filed after the Board decision should have placed the application in condition for allowance based upon previous indications from the Examiner and the Board.

Applicant states that the Amendment merely re-wrote claim 3 in independent form including all the limitations of claim 1.

The Examiner disagreed, noting in the Notice of Abandonment that the proposed amendment raised issues of indefiniteness, whereas “previously, dependent claim 3 further limited the requirement of independent claim 1....”

37 CFR 1.135(b) provides that

Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

In this instance, Applicant’s Amendment failed to place the application in condition for allowance. While the failure to file a proper amendment may have been unintentional, it cannot be said to have been unavoidable.

Conclusion

Applicant has failed to demonstrate that the failure an Amendment that placed the application in condition for allowance was unavoidable.

The petition to revive under 37 CFR 1.137(b)

With the instant petition, Applicant has filed a Request for Continued Examination (“RCE”), and a submission in the form of the November 24, 2006 Amendment.

The fee for the petition under 37 CFR 1.137(b) has been charged to deposit account 08-2789 as authorized in the petition.

The application is being referred to Technology Center Art Unit 1711 for processing of the RCE, and for continued examination in due course.

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
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ROBIN M. SILVA, ESQ.
DORSEY & WHITNEY LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

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DEC 02 2004

OFFICE OF PETITIONS

In re Application of :
Mayo et al. :
Application No. 09/812,034 :
Filed: March 19, 2001 :
Attorney Docket No. A-65353-6/RMS/RMK :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed October 15, 2003. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on February 16, 2004. A Notice of Abandonment was mailed April 23, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$420.00 extension of time fee (for the additional two-month extension of time) submitted with the petition on April 21, 2004 was subsequent to the maximum extendable period for reply, this fee was unnecessary and was refunded to petitioner via treasury check on June 17, 2004. Any further questions about the refund should be directed to the Office of Finance at (703) 305-8051.

The Notice of Appeal filed April 21, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1600 for further processing.

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

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



Paper No. 3

MAILED

NOV 19 2003

Technology Center 2100

SCHWARTZ & SCHWARTZ, P.L.C.
29193 Northwestern Highway, No. 572
Southfield, Michigan 48034

In re Application of
Ian M. Drysdale, et al
Application No. 09/812,036
Filed: March 19, 2001
For: METHOD AND SYSTEM FOR
PROVIDING A TARGETED
ELECTRONIC COMMUNICATION

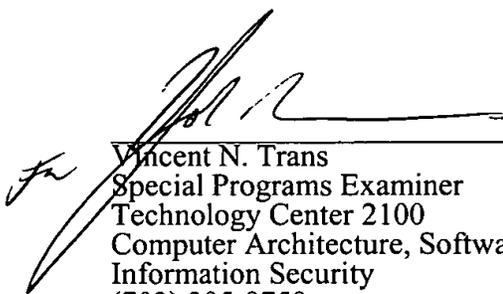
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:
: DECISION ON REQUEST FOR
: WITHDRAWAL AS ATTORNEY
:

This is a decision on the Request To Withdraw from Representation filed October 14, 2003.

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

The request is **GRANTED**.

Because no request was made for a change in correspondence, 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. 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, Software and
Information Security
(703) 305-9750



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Bank of America Plaza, Suite 5200
600 Peachtree Street, NE
Atlanta, GA 30308-2216

MAIL

MAR 14 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re application of: :
Thomas D. Petite, et al. :
Application No. 09/812,044 :
Filed: March 19, 2001 :
For: SYSTEM AND METHOD FOR MONITORING :
AND CONTROLLING REMOTE DEVICES :

**DECISION ON REQUEST TO
WITHDRAW FROM RECORD**

This is a decision on the request to withdraw as attorney/agent of record filed on September 27, 2004.

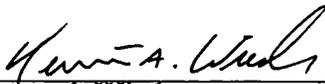
A grantable request to withdraw as attorney/agent of record must:

- (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.

Attorney requesting withdrawal is not of record.

Accordingly, the request is **DENIED**.

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


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

cc: Thomas, Kayden, horstemeyer &
Risley, LLP
100 Galleria Parkway N.W.
Suite 1750
Atlanta, Georgia 30339



TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.W.
SUITE 5200
ATLANTA GA 30308-2216

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MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Thomas D. Petite :
Application No. 09/812,044 : DECISION ON PETITIONS
Filed: March 19, 2001 : UNDER 37 CFR 1.183 AND
Attorney Docket No. 81607-1130 : 37 CFR 1.78(a)(3)

This is a decision on the petition filed January 21, 2009, which is being treated (1) as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.78(a)(3), and (2) as a petition under 37 CFR 1.78(a)(3) requesting acceptance of an unintentionally delayed claim for benefit of an earlier filed application.

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

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

WITH RESPECT TO WAIVER OF RULE 1.78(a)(3)

Petitioner requests under 37 CFR 1.183 waiver of Rule 1.78(a)(3), for the submission of a petition under 37 CFR 1.78(a)(3) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 as set forth in 37 CFR 1.17(t). In this regard, petitioner states that this is an extraordinary situation where waiver of the petition under 37 CFR 1.78(a)(3) is justified since "While Patent Owner believes that the Patent's priority claim is correct and valid based on the Examiner's acceptance of the priority claim amendment and the USPTO's printing of the Patent, Patent Owner nonetheless request waiver of Rule 78(a)(3) should the USPTO deem it to apply."

APPLICABLE RULE

37 CFR 1.78(a)(2)(i), (ii) and (iii) provides:

(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the

United States of America claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

- (A) An application for a design patent;
- (B) An application filed under 35 U.S.C. 111(a) before November 29, 2000;
- or
- (C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section

is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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 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).

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 claim for priority of the earlier application within the time period set forth in 37 CFR 1.78(a)(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).

Petitioner's contention that the filing of a petition under 37 CFR 1.78(a)(3) should be waived since the examiner accepted the correction of the priority claim in an amendment and that the patent issued/published with the correct priority claim, is without merit.

In an Office action mailed on August 20, 2004, on page 2 first paragraph, examiner informed applicant that Application No. 09/790,150 didn't relate to the above application and that Application No. 09/704,150 did relate to the above application. The examiner informed applicant to make the appropriate correction in the specification if required and also **file the petition**. Even though the priority claim was recognized by the examiner in regards to an amendment submitted on November 3, 2004, applicant was not precluded from the filing of a petition under 37 CFR 1.78(a)(3). Again, applicant was informed in an Office action mailed on August 20, 2004, to file a petition.

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)(2)(i), (ii) and (iii), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate

only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The petition is **GRANTED**.

As authorized, the \$1,620 fee for the petition under 37 CFR 1.78(a)(3) has been charged to petitioner's Deposit Account No. 20-1507.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web
 www.uspto.gov/ebc/efs_help.html
 (for help using EFS-Web call the
 Patent Electronic Business Center
 at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

A handwritten signature in cursive script that reads "Karen Creasy". The signature is written in black ink and is positioned above the printed name and title.

Karen Creasy
Petitions Examiner
Office of Petitions



Paper No. 7

CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101

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FEB 14 2002

In re Application of
Christopher Freitas et al
Application No. 09/812,073
Filed: March 20, 2001
For: ENERGY CONVERSION APPARATUS

OFFICE OF PETITIONS
DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 17, 2002.

The petition is granted.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Examiner 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

CLS 10-14 +
26-28

Figs 6-8



Paper No. 6

Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

In re Application of
Sanders et al.
Application No. 09/812,092
Filed: March 19, 2001
Attorney Docket No. 77410/501

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 14, 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 30, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 31, 2002. A Notice of Abandonment was mailed on February 11, 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.


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



CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

MAR 23 2005

In re Application of	:	
BHAGAVATULA et al.	:	DECISION ON PETITION
Application No. 09/812,108	:	
Filed: March 19, 2001	:	
Attorney Docket No. SP00-095	:	

This is a decision on the petition filed March 22, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn for failure to file formal drawings as required in the Notice of Allowability. The issue fee was paid on December 1, 2003.

The petition to withdraw the holding of abandonment is DENIED.

A Notice of Allowance was mailed on October 22, 2003, setting forth a three-month period of response. The Notice of Allowability indicated that corrected drawings must be submitted including changes required by the proposed drawing correction filed September 8, 2003 which has been approved by the examiner. The application was abandoned for applicant's failure to timely file new formal drawings.

Petitioner asserts that there was no outstanding drawing requirement because formal drawings were received on September 8, 2003 as evidenced by the return receipt postcard identifying two pages of drawings accompanying the Response dated September 8, 2003. Petitioner further asserts that because the drawings were submitted prior to the mailing of the Notice of Allowability, the formal drawings were timely submitted. Petitioner has attached a copy of the Response dated September 8, 2003 together with a copy of the annotated drawing sheet identifying changes and the replacement drawing sheet.

A review of the application file reveals that in the non-final Office mailed on March 6, 2003, applicant was required to submit either a proposed drawing correction or corrected drawings in response to the Office action. In the Response dated September 8, 2003 applicant referenced the amendments to the drawings using both an annotated drawing sheet identifying changes and a replacement drawing sheet. The Response fails to mention that the replacement drawing sheet is also the corrected drawings as required by the Office action mailed March 6, 2003.

A review of the replacement drawing sheet and the originally filed drawings reveals that the figures on each sheet do not correspond. The replacement drawing sheet contains Figure 19-21 and the original drawing sheet contains Figures 19-22. Figure 22 would be omitted upon entry of the replacement drawing sheet.

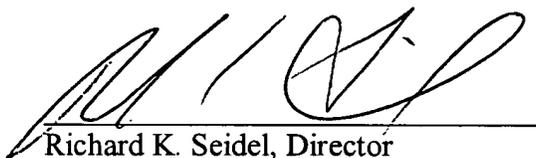
Under 37 CFR 1.81(a), applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented. Figure 22 is necessary to facilitate understanding of the subject matter (see page 15 of the specification) and therefore Figure 22 is required.

Further, the record is devoid of any response by applicant to bring to the examiner's attention that the corrected drawings have been filed and that the requirement of the Notice of Allowability to submit new formal drawings should be withdrawn.

In view of the above stated reasons, the application remains abandoned and the petition to withdraw the holding of abandonment for the above-identified application is denied.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



Richard K. Seidel, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components



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Paper No.

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

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AUG 02 2005

OFFICE OF PETITIONS

In re Application of :
Bhagavatula et al. : DECISION ON
Application No. 09/812,108 : PETITION
Filed: March 19, 2001 :
Atty Docket No. SP00-095 :

This is a decision on the "Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)," filed April 18, 2005.

The petition under § 1.137(b) is GRANTED.

The above-identified application became abandoned for failure to file drawings within the period of three (3) months from the mailing date, October 22, 2003, of the Notice of Allowability. No extensions of time are permitted for transmitting such drawings. Accordingly, the above-identified application became abandoned on January 23, 2004. A Notice of Abandonment was mailed on March 11, 2004. By decision mailed March 23, 2005, a prior petition to withdraw the holding of abandonment filed March 22, 2004 was dismissed.

Petitioner has met all requirements for a grantable petition under § 1.137(b). The petition includes the required reply in the form of new formal drawings, the petition fee of \$1500, and the required statement of unintentional delay. The concurrent but distinct requirement set forth in the Notice of Allowance

and Fees Due of paying the issue fee and publication fee were previously satisfied.

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

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



CORNING INCORPORATED
SP-TI-03-1
CORNING, NY 14831

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of :
Venkata A. Bhagavatula et al :
Application No. 09/812,108 :
Filed: March 19, 2001 :
Attorney Docket No. SP00-095 :

ON PETITION

This is a decision on the petition, filed August 17, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 1, 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 should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2839 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).



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Commissioner for Patents
United States Patent and Trademark Office
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Arlington, VA 22313-1450
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Paper No. 6

Chapin & Huang
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

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MAY 22 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
B. Kalyanasundaram et al. :
Application No. 09/812,134 :
Filed: March 19, 2001 :
Attorney Docket No. CIS00-3379 :

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

The petition is Granted.

The above-identified application became abandoned of failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers (Notice) mailed April 25, 2001, which set a period for reply of (2) TWO 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 26, 2001.

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

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

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



GRIMES & BATTERSBY, LLP
488 MAIN AVENUE, THIRD FLOOR
NORWALK CT 06851

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DEC 04 2006

OFFICE OF PETITIONS

In re Application of	:	
Kulakowski et al.	:	
Application No. 09/812,168	:	ON PETITION
Filed: March 19, 2001	:	
Attorney Docket Number: ATS016USV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of December 23, 2003. An amendment and two month extension of time fee were filed on May 27, 2004 (certificate of mailing May 24, 2004). A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on June 14, 2004 which set an extendable reply period of one month. This application became abandoned on July 15, 2004. A Notice of Abandonment was mailed on October 6, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



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Alexandria, VA 22313-1450
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Mr. S. H. Dworetzky
AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Carolan, et al.	:	
Application No.: 09/812,315	:	DECISION GRANTING PETITION
Filed: March 20, 2001	:	
Attorney Docket No.: 2000-0296	:	
FOR: METHOD AND APPARATUS FOR	:	
COORDINATING A CHANGE IN SERVICE	:	
PROVIDER BETWEEN A CLIENT AND	:	
A SERVER	:	

This is a decision on the petition filed November 25, 2005 under 37 CFR 1.137(a) to revive the above-identified application. The petition will be treated under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

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

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed June 23, 2005, which set a period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on September 24, 2005. A Notice of Abandonment was mailed on November 10, 2005.

The Office received an acceptable Revocation/Power of Attorney/Change of Address on September 23, 2004. Unfortunately, the Office did not grant the requests in the document and the Notice of Allowance and Fee(s) Due was mailed to the previous correspondence address of record. The Office erred in not changing Office records to reflect the new correspondence

address and empowered practitioners. This error resulted in several Office communications (most importantly, the June 23, 2005 Notice of Allowance and Fee(s) Due) being mailed to an incorrect address and the subsequent failure to pay the issue fee and publication fee in a timely manner.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(a) is dismissed as moot. Pursuant to petitioners' authorization, the \$500.00 petition fee will be credited to deposit account no.50-2396.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

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



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Wen-Shyong Liao :
Application No. 09/812,326 :
Filed: March 20, 2001 :
Attorney Docket No. 0698-0189PUS1 :

ON PETITION

This is a decision on the petition, filed March 30, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for failure to reply in a timely manner to the final Office action mailed September 11, 2002. A Notice of Abandonment was mailed on April 16, 2003. On March 30, 2005, petitioner submitted, *inter alia*, a petition under 37 CFR 1.137(b) and a Request for Continued Examination (RCE) under 37 CFR 1.114.

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

The application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 2834, for further processing of the request for continued examination under 37 CFR 1.114 filed March 30, 2005.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



Steven W. Thrasher
Jackson Walker, LLP
2435 North Central Expressway, #600
Richardson, TX 75080

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MAY 16 2005

In re Application of
Kenneth H. Crain, et. al.
Application No. 09/812,391
Filed: March 19, 2001
Attorney Docket No. 108292.00004

OFFICE OF PETITIONS
NOTICE

This is in response to the request under 37 CFR 1.27(g)(2), filed January 25, 2005, which is being treated as a 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.

Finance records reveal that petitioner submitted \$475 for a small entity three month extension of time on August 16, 2004. The record also reveals that on January 25, 2005 petitioner submitted a check in the amount of \$475 to cover the large entity fee deficiency of the three month extension of time. However, effective December 8, 2004, a large entity three month extension of time is listed as \$1,020. Therefore, as authorized in the instant petition, the deficiency of \$70 (\$1020-\$475-\$475) has been charged to petitioner's deposit account.

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

This file is being referred to Technology Center Art Unit 2173, for review of the amendment filed May 9, 2004.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Jackson Walker, LLP
2435 North Central Expressway, #600
Richardson, TX 75080

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth H. Crain, et. al. :
Application No. 09/812,391 :
Filed: March 19, 2001 :
Attorney Docket No. 108292.00004 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the \$790 filing fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2173.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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#600
2435 NORTH CENTRAL EXPRESSWAY
RICHARDSON, TX 75080

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth H. Crain, et al. :
Application No. 09/812,392 : **ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No. 108292.00006 :

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**.

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

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

JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

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MAR 07 2008

OFFICE OF PETITIONS

In re Application of :
Kenneth H. Crain et al. :
Application No. 09/812,393 : ON PETITION
Filed: March 19, 2001 :
Attorney Docket No. 108292.00005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 7, 2005. The Notice of Abandonment was mailed August 24, 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 \$1,500; 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.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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.



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

STEVEN W. THRASHER
JACKSON WALKER, LLP
2435 NORTH CENTRAL EXPRESSWAY, #600
RICHARDSON, TX 75080

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth H. Crain, et al. :
Application No. 09/812,394 : **ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No. 108292.00003 :

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**.

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

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



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 29 2010

OFFICE OF PETITIONS

LESTER F. LUDWIG
P.O. BOX
BELMONT, CA 94002

In re Application of :
Lester F. Ludwig :
Application No. 09/812,400 : **ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No.: 2152-3005 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 7, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 24, 2010, as required by the Notice of Allowance and Fee(s) Due mailed February 22, 2010. On June 7, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on June 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the \$755 issue fee and \$300 publication fee; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed June 7, 2010 is accepted and PTO records have been updated accordingly.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



Steven W. Thrasher
Jackson Walker, LLP
2435 North Central Expressway, #600
Richardson TX 75080

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of: :
Crain et al. :
Application No. 09/812,405 :
Filed: March 19, 2001 :
Attorney Docket 125273.00007 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed January 25, 2005.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN
HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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MAY 23 2008

OFFICE OF PETITIONS

In re Application of

Nicholas Paul Andrew Galea

Application No. 09/812,409

Filed: March 20, 2001

Attorney Docket No. U 013324-3

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 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 September 7, 2005, 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 December 8, 2005. A Notice of Abandonment was mailed on October 6, 2006.

The Request for Continued Examination filed December 7, 2007, is noted.

The application file is being forwarded to Technology Center 2100, GAU 2135 for further processing.

The Revocation of Power of Attorney and Change of Correspondence Address received December 7, 2007, is noted and made of record.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Burnhouse et al. :
Application No. 09/812,417 : ON PETITION
Filed: 19 March, 2001 :
Attorney Docket No. 80398P349 :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 3 January, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 10 June, 2004, for failure to submit a proper reply to the final Office action mailed on 9

¹Effective 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 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 37 CFR 1.137(c)).

March, 2004, which set a three (3) month shortened statutory period for reply. On 10 May, 2004, petitioners submitted an amendment after final rejection. The amendment did not place the application in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 21 October, 2004. Notice of Abandonment was mailed on 18 November, 2004.

The present petition is accompanied by a Request for Continued Examination and an amendment as the required submission under 37 CFR 1.114.

The application is being referred to Technology Center Art Unit 2173 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



**PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510**

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of :
Brian Collamore et al :
Application No. 09/812,466 :
Filed: March 30, 2001 :
Attorney Docket No. 10010175-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 10, 2004.

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 (571) 272-3220.

This matter is being referred to Technology Center AU 2137.



Wan Laymon

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

cc: JOHN VODOPIA
PHILIPS ELECTRONICS
345 SCARBOROUGH ROAD
BRIARCLIFF MANOR, NY 10510-8001



UNITED STATES
PATENT AND
TRADEMARK OFFICE

#11

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450 ALEXANDRIA VA 22313-450
WWW.USPTO.GOV

JUN 17 2003

KRISTINA BIEKER-BRADY
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of :
Thomas L. Benjamin :
Serial No.: 09/812,471 : PETITION DECISION
Filed: March 19, 2001 :
Attorney Docket No.: 21559 :

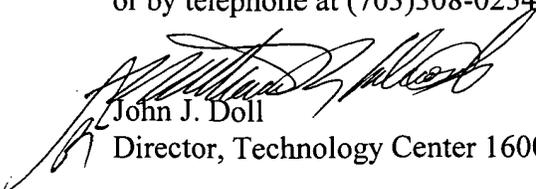
This is in response to applicant's petition under 37 CFR 1.181, filed February 3, 2003, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicant on March 26, 2002, setting a one month shortened statutory period for reply. When no reply was correlated with the file a Notice of Abandonment was mailed to applicant on December 2, 2002. Applicant states that a reply was mailed to the Office on April 25 2002, as evidenced by a properly executed certificate of mailing, a copy of which is enclosed. In addition, Applicant submits declarations from Guy Beardsley, a practice systems specialist at the law firm attesting the reply to the office action was mailed on April 25, 2002 and to the mail procedures in effect on April 25, 2002. The originally submitted papers have not been matched with the file, however, the copy of the reply submitted with the petition will be used. It is concluded in view of the evidence presented that the reply was timely filed. Hence the Notice of Abandonment was mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (703)308-0254 or by facsimile transmission at (703) 308-7230.


John J. Doll

Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090921

DATE : September 21, 2009

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,425

09/812 485

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-910

Palm location 7590 - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

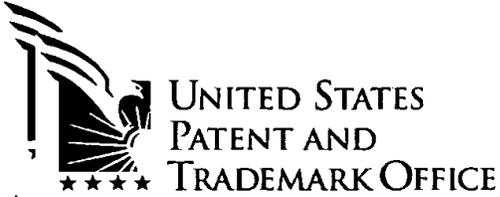
Denied

State the reasons for denial below.

Comments:

SPE: /Cecilia Tsang/

Art Unit 1654



Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 5

Roberts Abokhair & Mardula, L.L.C.
Suite 1000
11800 Sunrise Valley Drive
Reston VA 20191-5302

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JAN 22 2002

OFFICE OF PETITIONS

In re Application of :
Peter Moore :
Application No. 09/812,507 :
Filed: March 20, 2001 :
Attorney Docket No. 2653-001 :

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed May 8, 2001, which set a period for reply of two(2) months. Accordingly, the application became abandoned on July 9, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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

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

Sherry Brinkley
Petitions Examiner



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MAIL

JAN 15 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:	:	
Hitoshi Ogawa, et al.	:	DECISION GRANTING PETITION
Application No: 09/812,582	:	TO RESET PERIOD FOR REPLY
Filed: March 21, 2001	:	
Attorney Docket No: 566.30812VC2	:	
For: DISK DRIVE APPARATUS AND METHOD OF MOUNTING SAME	:	

This is a decision on the petition filed on December 3, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on November 5, 2002 be restarted to run from the date on which the Office re-mails a complete Office action, including a copy of a PTO-892 listing Morehouse et al (5,442,266) and furnishing a copy of the Morehouse et al. reference to applicant.

The petition is **GRANTED**.

Petitioner provided a statement that the Office communication in question was incomplete due to failure of the PTO-892 to reference the Morehouse et al. '266 patent used in a rejection in the Office action mailed November 5, 2002 and for failure to provide applicant with a copy of the same reference. The petitioner states that the Office was notified of the incomplete Office action within one month from the date it was received. The petition complies with the requirements set forth in MPEP Section 710.06. Accordingly the petition is granted and the period will be restarted from the date of the re-mailing of a complete Office action.

The application file is being returned to the examiner for correction. From there, the file will be forwarded to TC 2600 Technical Support Staff for remailing of a complete Office action. The period for response will run from the date of the new mailing.



James L. Dwyer, Director
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

MAIL

MAR 25 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

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

In re Application of	:
OGAWA et al.	:
Application No. 09/812,582	:DECISION ON PETITION TO
Filed: March 21, 2001	:WITHDRAW HOLDING OF
For: DISK DRIVE APPARATUS AND	: ABANDONMENT
METHOD OF MOUNTING SAME	:

This is a decision on the paper work filed June 19, 2003, which is being treated as a petition based on M.P.E.P. 711.03(c)(II), and pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. No fee is required.

This application became abandoned for failure to timely submit a proper response to the Non-Final Office action mailed January 27, 2003 restarting the period for response from the date of the new mailing in view of the decision (paper # 8, mailed January 15, 2003) granting applicant's petition (paper # 7, filed December 3, 2002) request the Office to reset the period for response due to receipt of an incomplete Office action. No Notice of Abandonment has been mailed.

Petitioner alleges that the Non-Final Office Action mailed January 27, 2003 was not received.

Based on M.P.E.P. § 711.03(c) [*See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)*], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. 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 communication must include:

- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
- (b) 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,
- (c) 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 showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the records indicate that the non-final Office action was properly mailed to the practitioner of record at the correspondence address at the time of mailing. Thus, there was no irregularity in mailing the Non-Final Office Action on the part of the U.S. Patent and Trademark Office.

The allegation of non-receipt is supported by a statement by the petitioner attesting that the Office Action was not received at the correspondence address, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of the Office action as set forth above. Therefore, the holding of abandonment is hereby withdrawn.

Accordingly, the petition is **GRANTED**.

Due to the time lapse between the original mailing and the date of this decision, the application file is being forwarded to the examiner for updating the search and the Office action as appropriate. From there, the file will be forwarded to TC 2600 technical support staff for mailing the new action. The shortened statutory period for reply will be set to run from the mailing date of the new action.



Mark Powell, Director
Technology Center 2600
Communications



#7

Paper No. 7

21 MAY 2002

Clifford Chance Rogers & Wells LLP
200 Park Avenue
New York NY 10166-0153

In re Application of: David Lawrence et al.
Application No. 09/812,627
Filed: March 20, 2001
For: AUTOMATED GLOBAL RISK
MANAGEMENT

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed December 7, 2001. In light of the content of the petition, it will be treated first in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, then M.P.E.P. §708.02(VIII) Accelerated Examination.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes “activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...” The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner’s submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to managing risk related to financial transactions which does not directly relate to countering violent acts or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. While applicant indicates that the invention is useful for government and law enforcement agencies to block or more closely monitor high risk transactions, this does not persuasively establish that the invention represents an advancement in the field of countering terrorism.

Next, M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;
- (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

Applicant's submission is deficient in that it does not clearly comply with (B), (D) and (E). Concerning (B), while the petition states that the claims are directed to a single invention, no statement is found that applicant will make an election without traverse if the Office determines that the claims are not obviously directed to a single invention. Regarding (D), while it is indicated that a copy of the references "deemed related" are supplied, this does not indicate they are the references "most closely related". With respect to (E), the discussion of the references does not point out how the *claimed* subject matter is patentable over the references. The discussion of the references asserts that the references do not provide a risk quotient reflecting the amounts of legal, regulatory, financial and reputational risk in the transaction. However, claims 1, 16, 21, and 22, for example do not recite the type of risk argued, i.e. legal, regulatory, financial and reputational risk. Further, claim 23 does not specifically call for generating the risk quotient, instead it is received. Finally, claim 22 is a product by process claim directed to a signal indicating risk. The assertions made with regard to the references do not match the scope of the independent claims.

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.



Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780



MAILED

APR 10 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 7

Joseph P. Kincart
Clifford Chance Rogers & Wells LLP
200 Park Avenue
New York, NY 10166-0153

In re Application of: David Lawrence)	
Application No. 09/812,628	)	DECISION ON PETITION FOR
Filed: March 20, 2001	)	ACCELERATED EXAMINATION
For: AUTOMATED ACCOUNT RISK	)	UNDER M.P.E.P. §708.02(VIII)
MANAGEMENT)	

This is a decision on the petition to make special filed December 6, 2001. In light of the content of the petition, it will be treated first in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, and then M.P.E.P. §708.02(VIII) Accelerated Examination.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to managing risk related to a client account or managing risk relating to political exposure associated with a financial transaction which does not directly relate to countering violent acts or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. While applicant indicates that the invention could be related to national security, this does not persuasively establish that the invention represents an advancement in the field of countering terrorism.

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

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

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
- (b) Presents all claims directed to a single invention, ...
- (c) Submits a statement(s) that a pre - examination search was made, *listing the field of search by class and subclass*, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

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

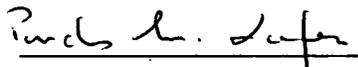
Applicant's submission is deficient in that there is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c). Applicant's submission merely generalizes each reference accompanied by a statement that the particular reference does not include the features of the invention. A one or two line summarization of the reference does not satisfy the requirement, as it does not provide a *detailed discussion* of the references. Furthermore, the discussion of the claimed subject matter merely asserts that the references do not "address the broader, regulatory, and reputational risk associated with opening a financial account or provide an indicator of a level of risk associated with a particular account". However, claims 1, 16, and 20-22, for example, do not recite the type of risk argued, i.e. legal, regulatory, and reputational risk. The assertions made with regard to the references do not match the scope of the independent claims and therefore the submission does not point out how the *claimed subject matter is patentable over the references*.

Furthermore, since the "Statement of Field of Search" and the "Discussion of References" are a part of the Petition to Make Special, these sections of the petition should be placed above the signature

of the person signing the petition.

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

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

MAILED

MAY 13 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
David Lawrence
Application No. 09/812,628
Filed: March 20, 2001
Attorney Docket No. 17209-449

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This is a decision in response to the petition, filed February 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

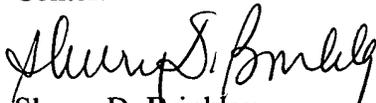
The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office communication mailed December 9, 2008. This decision precedes the mailing of a Notice of Abandonment. On February 10, 2009, 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 amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3692 for appropriate action by the Examiner in the normal course of business on the reply received February 10, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN - 9 2006

GIFFORD, KRASS, GROH
280 N. OLD WOODWARD AVE.,
SUITE 400
BIRMINGHAM, MI 48009

In re application of : **DECISION ON PETITION**
Michael R. Levine : **TO MAKE SPECIAL**
Application No. 09/812,639 : **(APPLICANT'S AGE)**
Filed: March 20, 2001 :
For: METHOD OF PAYMENT FOR A HEALTHCARE
SERVICE

This is a decision on the petition submitted on November 16, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Michael R. Levine indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special GRANTED.

A handwritten signature in black ink, appearing to read "Randolph A. Reese", is written over a solid horizontal line.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 11/28/05



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Commissioner for Patents
United States Patent and Trademark Office
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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JUN 20 2005

OFFICE OF PETITIONS

In re
Masahiro Suzuki : DECISION ON APPLICATION
Patent No. 6,856,341 : FOR PATENT TERM ADJUSTMENT
Issued: February 15, 2005 : AND NOTICE OF INTENT TO
Application No. 09/812,677 : ISSUE CERTIFICATE OF
Filed: March 21, 2001 : CORRECTION
Attorney Docket No. 02355.012114 :

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed March 11, 2005. Patentee requests that the determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **GRANTED**. The determination of PTA is **three hundred seventy-four (374) days**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred seventy-four (374) days**.

On February 15, 2005, the above-identified application matured into U.S. Patent No. 6,856,341. The patent issued with a Patent Term Adjustment of six hundred four (604) days.

The Office initially determined a patent term adjustment of six hundred four (604) days based on an adjustment for PTO delay of three hundred eighty-six (386) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and two hundred forty-three (243) days, pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by twenty-five (25) days of Applicant delay pursuant to 37 C.F.R. §1.704(c)(10).

A review of the record reveals that Applicant should have been assessed an additional delay of two hundred thirty (230) days. A Notice of Allowability was mailed on November 17, 2003, requiring drawings. Applicant failed to timely file drawings. Accordingly, the application became abandoned on February 18, 2004. A petition to revive was filed on June 4, 2004, and was granted in a decision mailed on November 17, 2004.

37 C.F.R. § 1.704(c)(3) states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) **The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;** (emphasis added)

Therefore, Applicant should have been assessed delay for the period from February 18, 2004 (the date the application became abandoned) to October 4, 2004 (the date that is four months after the grantable petition was filed), or 230 days.

In view thereof, the correct determination of patent term adjustment is **three hundred seventy-four (374) days** (629 days of PTO delay, reduced by 255 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 Patentee for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred seventy-four (374) days**, subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Karin Ferriter
KFR

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

Enc: draft certificate of correction



Paper No. 4

KENYON & KENYON
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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FEB 19 2002

OFFICE OF PETITIONS

In re Application of
Tamura, et al.
Application No. 09/812,690
Filed: March 21, 2001
Attorney Docket No. 53375/1385

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:
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:
:

ON PETITION

This is a decision on the papers styled "Petition To Accord Filing Date (37 CFR 1.182)" filed on August 30, 2001, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of March 21, 2001, including seven (7) sheets of drawings.

The application was filed on March 21, 2001. However, on July 12, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

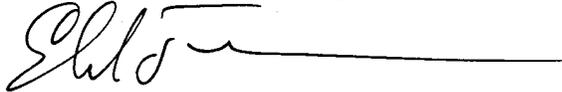
In response, on August 30, 2001, a petition with petition fee and seven (7) sheets of drawings were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of eight (8) drawings on seven (7) sheets of drawings ("No. Of Drawings 8; No. Of Drawing Pages 7") on March 21, 2001. Drawings dated March 21, 2001 have not been found after review of the application file . It is assumed that the seven (7) sheets of drawings submitted on March 21, 2001 were misplaced by the Office.

In view of the above, the petition is granted.

The \$130.00 petition fee is not necessary and has not been charged.

This application will be returned to OIPE for further processing with a filing date of March 21, 2001, using the seven (7) sheets of drawings, supplied on August 30, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.



Edward J. Tannouse
Petitions 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



Paper No. 4

KENYON & KENYON
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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FEB 19 2002

OFFICE OF PETITIONS

In re Application of :
Tamura, et al. :
Application No. 09/812,690 :
Filed: March 21, 2001 :
Attorney Docket No. 53375/1385 :

ON PETITION

This is a decision on the papers styled "Petition To Accord Filing Date (37 CFR 1.182)" filed on August 30, 2001, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of March 21, 2001, including seven (7) sheets of drawings.

The application was filed on March 21, 2001. However, on July 12, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

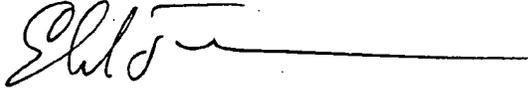
In response, on August 30, 2001, a petition with petition fee and seven (7) sheets of drawings were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of eight (8) drawings on seven (7) sheets of drawings ("No. Of Drawings 8; No. Of Drawing Pages 7") on March 21, 2001. Drawings dated March 21, 2001 have not been found after review of the application file. It is assumed that the seven (7) sheets of drawings submitted on March 21, 2001 were misplaced by the Office.

In view of the above, the petition is granted.

~~The \$130.00-petition-fee-is-not-necessary-and-has-not-been-charged.~~

This application will be returned to OIPE for further processing with a filing date of March 21, 2001, using the seven (7) sheets of drawings, supplied on August 30, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.



Edward J. Tannouse
Petitions 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



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APR 11 2002

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100**

Jeffrey S. Whittle, Esq.
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 South Orange Avenue - Suite 1401
P.O. Box 3791
Orlando, Florida 32802-2330

Paper No. 6

MAILED

APR 11 2002

Technology Center 2100

In re Application of: Terrance Moore et al.)
Application No. 09/812,703)
Filed: March 19, 2001)
For: METHOD FOR COLLECTING FEES)
FOR HEALTHCARE)
MANAGEMENT GROUP)

**DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed January 29, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

(b) Presents all claims directed to a single invention, 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.

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

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

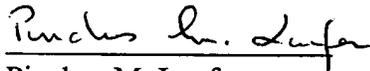
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the **claimed subject matter is patentable over the references.**

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

Applicant's submission fails on two counts. The petition is deficient in that (1) there is no statement that applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and (2) the discussion does not clearly point out how the ***claimed subject matter is patentable over the references.*** 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 **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791

Paper No. 9

In re application of : **DECISION ON PETITION**
Terrance Moore : **TO MAKE SPECIAL**
Application No. 09/812,703 : **(ACCELERATED EXAMINATION)**
Filed: March 19, 2001
For: **METHODS FOR COLLECTING FEES**
FOR HEALTHCARE MANAGEMENT
GROUP

This is in response to the renewed petition filed on June 11, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

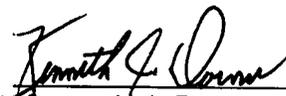
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since the requirements lacking in the original petition of January 29, 2002 have now been supplied, all the items above required for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 2/28/03



**JEFFREY S. WHITTLE
BRACEWELL & PATTERSON LLP
711 LOUISIANA STREET
SUITE 2900
HOUSTON TX 77002-2781**

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
Terrance Moore et al :
Application No. 09/812,703 : **DECISION GRANTING PETITION**
Filed: March 19, 2001 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 24996 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 27, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 3687 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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.*



MAILED

APR 10 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

Jeffrey S. Whittle
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
P.O. Box 3791
Orlando, Florida 32802-3791

In re Application of: Charles Lewis et al.)	
Application No. 09/812,704	)	DECISION ON PETITION FOR
Filed: March 19, 2001	)	ACCELERATED
For: METHOD AND SYSTEM FOR	)	EXAMINATION UNDER
HEALTHCARE PRACTICE	)	M.P.E.P. §708.02(VIII)
MANAGEMENT)	

This is a decision on the petition, filed February 13, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

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

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

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

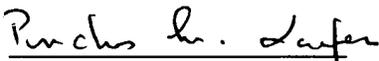
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

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

Applicant's submission fails on two counts. The petition is deficient in that (1) there is no statement that applicant will make an election *without traverse* if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and (2) Applicant's detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c) since the detailed discussion merely paraphrases the Abstracts provided in each reference. Therefore, the submission does not satisfy the requirement, as it does not provide a *detailed discussion* of the references. The discussion also does not point out how the *claimed subject matter is patentable over the references*. That is, the discussion of the claims does not refer to specific limitations of the claims, but instead makes generalized statements concerning the claimed subject matter. Furthermore, given the different subject matter of each independent claim, when discussing the claims in view of the references, each independent claim should be specifically referred to and discussed with regards to each reference.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.



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



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

Jeffrey S. Whittle
Bracewell & Patterson LLP
Suite 2900
711 Louisiana Street
Houston, TX 77002-2781

MAILED

OCT 10 2002

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

Paper No. 9

In re application of : **DECISION ON PETITION**
Charles Lewis et al. : **TO MAKE SPECIAL**
Application No. 09/812,704 : **(ACCELERATED EXAMINATION)**
Filed: March 19, 2001
For: **METHOD AND SYSTEM FOR**
HEALTHCARE PRACTICE MANAGEMENT

This is in response to the renewed petition filed on June 10, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt **bona fide** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM: 10/9/02



JEFFREY S. WHITTLE
BRACEWELL & PATTERSON, LLP
711 LOUISIANA STREET
SUITE 2900
HOUSTON, TX 77002-2781

COPY MAILED

MAR 04 2008

In re Application of : **OFFICE OF PETITIONS**
Charles Lewis, et al. :
Application No. 09/812,704 : DECISION GRANTING PETITION
Filed: March 19, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01-P-24995 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

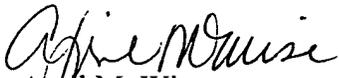
Petitioner is advised that the issue fee paid on January 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

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.*

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.



April M. Wise
Petitions Examiner
Office of Petitions

cc: DENVER BISIGNANO
BRACEWELL & GIULIANI, LLP
PO BOX 61389
HOUSTON, TX 77208-1389



Paper No. 5

MAIL

JUL 3 1 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOE ZHENG
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

In re Application of	:	
Darwin Hou	:	DECISION ON PETITION
Application No. 09/812,705	:	TO MAKE SPECIAL
Filed: March 19, 2001	:	
For:PALM OFFICE ASSISTANTS	:	

This is a decision on the petition filed July 16, 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.

The present petition does not include item (d) as set forth above.

As to item (d), applicant has failed to include a copy of each reference deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. It is noted that the petition states that a copy of the references is enclosed. A search of the official file, however, reveals that the references are not contained therein. Applicant should submit the required references with a request for reconsideration.

Accordingly, the petition is **DENIED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the date of this decision.

Kenneth A. Wieder

 Kenneth A. Wieder
 Special Program Examiner
 Technology Center 2600
 Communications
 (703) 305-4710



Paper No. 7

JOE ZHENG
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

MAIL

OCT 26 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Darwin Hou	:	
Application No. 09/812705	:	DECISION ON PETITION
Filed: March 19, 2001	:	TO MAKE SPECIAL
For: PALM OFFICE ASSISTANTS	:	

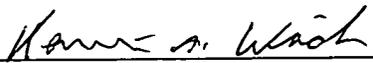
This is a decision on the Response to Decision on Petition by Applicant and Request for Reconsideration under MPEP § 708.02, filed September 4, 2001, to make the above-identified application special.

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

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

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

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



 Kenneth A. Wieder
 Special Program Examiner
 Technology Center 2600
 Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

King Sheng Wang
P O Box 65-45
Taichung 403 TW TAIWAN

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APR 15 2004

OFFICE OF PETITIONS

In re Application of	:	
King Sheng Wang	:	
Application No. 09/812,853	:	DECISION ON PETITION UNDER
Filed: March 21, 2001	:	37 C.F.R. §1.137(a)
Title: TILTING SUPPORT DEVICE	:	
HAVING DAMPING DEVICE	:	

This is a decision on the petition under 37 CFR §1.137(a)¹, filed March 23, 2004, to revive the above-identified application.

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 (notice), mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees². Accordingly, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed November 11, 2003.

With the instant petition, petitioner has included the petition fee and a statement from the inventor where it is asserted that the notice of July 2, 2003 was not received.

The instant petition lacks item (3) above.

Regarding the first required item, Petitioner has not submitted the required reply. A copy of the

¹ A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
- (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).

notice of July 2, 2003 has been included with this decision, so that the issue fee may be submitted with the renewed petition.

Regarding the petition fee, Petitioner has submitted payment in the amount of \$665.00. The fee associated with the filing of a petition under 37 C.F.R. §1.137(a) is \$55.00. As such, Petitioner has overpaid in the amount of \$610. If the petitioner wishes to have the \$610.00 overpayment refunded, he should submit a request for refund to the Office of Finance³. A copy of this decision should accompany any such request.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”⁴

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”⁵

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁶

3 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

4 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’s interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)

5 Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

6 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct. 1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir. 1982)).

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.”⁷

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁸

The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”⁹

Nonawareness of a PTO rule will not constitute unavoidable delay¹⁰

The burden of showing the cause of the delay is on the person seeking to revive the application¹¹.

A delay caused by an applicant’s lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered “unavoidable” due to either the applicant’s reliance upon oral advice from USPTO employees or the USPTO’s failure to advise the applicant to take corrective action¹².

The portion of the MPEP relevant to the abandonment of this application

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant’s representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was

⁷ *Ray v. Lehman*, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing *Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁸ *Id.*

⁹ See *In re Mattulah*, 38 App. D.C. 497 (D.C. Cir. 1912).

¹⁰ See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

¹¹ *Id.*

¹² See *In re Sivertz*, 227 USPQ 255, 256 (Comm’r Pat. 1985).

never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances that led to the abandonment of the application meet the aforementioned unavoidable standard and, therefore; petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner contends that this mailing was never received.

The filing of a petition under the "unavoidable" standard carries with it a high standard. As such, it is insufficient to merely state that the mailing was not received. Petitioner must not only state that the Office communication was not received, but also that he searched the place where he normally would keep such communications and could not find it. Petitioner must explain his system for keeping track of patent matters – where he keeps the correspondence¹³; where he writes down due dates¹⁴; how he knows replies are due, etc. In essence, Petitioner must explain how he reminds himself of response due dates and show that the Notice was not entered into that

¹³ Does the Petitioner have a file/some means of organization where he keeps correspondence pertaining to this application?

¹⁴ This need not be a log. This may be in the form of a calendar or date book.

system. The Office would like to see documentary evidence and records as may exist which would substantiate that Petitioner exercised due diligence with respect to his most important business.

For these reasons, petitioner has failed to show the correspondence at issue was not received.

On the facts presented, this situation fails to constitute unavoidable delay. These facts might constitute an unintentional delay in prosecution, but it certainly does not rise to the level of unavoidable.

Therefore, it is determined that the petitioner cannot establish that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable which is required in order for relief to be granted under 37 CFR 1.137(a).

Consequently, the petition is **DISMISSED**.

Any response must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension 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(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition may be submitted by mail¹⁵, hand-delivery¹⁶, or facsimile¹⁷.

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.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Copy of notice mailed July 2, 2003

¹⁵ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

¹⁶ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

¹⁷ (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
WWW.USPTO.GOV

Paper No. 15

King Sheng Wang
P O Box 65-45
Taichung 403 TW TAIWAN

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
King Sheng Wang	:	
Application No. 09/812,853	:	DECISION ON RENEWED
Filed: March 21, 2001	:	PETITION UNDER 37 C.F.R. §1.137(b)
Title: TILTING SUPPORT DEVICE	:	
HAVING DAMPING DEVICE	:	

This is a decision on the renewed petition under 37 CFR 1.137 (b)¹, filed June 9, 2004, to revive the above-identified application.

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 (notice), mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees². Accordingly, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed November 11, 2003.

On March 23, 2004, Petitioner submitted the original petition under 37 C.F.R. §1.137(a), which was dismissed via the mailing of a decision on April 15, 2004.

With the instant petition, petitioner has included both the publication fee, \$650 towards the issue fee, and has made the proper statement of unintentional delay. The petition fee was submitted

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).

previously on March 29, 2004.

The previous decision indicated that the petitioner had mistakenly paid for a petition under 37 C.F.R. §1.137(b), and was entitled to a refund. As the Petitioner has since filed a petition under this section, obviously a refund is no longer due. Accordingly, that portion of the previous decision is hereby **VACATED**.

Petitioner has thus met requirements (2) – (3) above. The fourth requirement does not apply. Regarding the first requirement, Petitioner has not submitted the required reply. Petitioner submitted \$650 as payment of the issue fee, as this was the amount indicated on the copy of the Notice of Allowability and Issue Fee due, which was included with the previous decision. Unfortunately, on October 1, 2003, issue fees were raised to \$665.00. The omission of that information from the previous decision was a regrettable oversight.

As such, Petitioner will need to submit the remaining \$15 which is owed, before this application may be forwarded to the Office of Patent Publications for processing into a patent.

Therefore, the petition must be **DISMISSED**.

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

The second renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location.

Any renewed petition may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

End.

³ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁴ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁵ (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
WWW.USPTO.GOV

Paper No. 15

King Sheng Wang
P O Box 65-45
Taichung 403 TW TAIWAN

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
King Sheng Wang	:	
Application No. 09/812,853	:	DECISION ON SECOND RENEWED
Filed: March 21, 2001	:	PETITION UNDER 37 C.F.R. §1.137(b)
Title: TILTING SUPPORT DEVICE	:	
HAVING DAMPING DEVICE	:	

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

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 (notice), mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees². Accordingly, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed November 11, 2003.

On March 23, 2004, Petitioner submitted the original petition under 37 C.F.R. §1.137(a), which was dismissed via the mailing of a decision on April 15, 2004.

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 renewed petition under 37 C.F.R. §1.137(b) was submitted on June 9, 2004, and was dismissed via the mailing of a decision on June 28, 2004, for failure to submit the issue fee in full.

With the present petition, Petitioner has submitted the remainder of the issue fee.

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

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
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

Michael C Barrett
Fulbright & Jaworski LLP
600 Congress Avenue
Suite 2400
Austin, TX 78701

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SEP 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Russell J. Mumper, et al.	:	
Application No. 09/812,884	:	DECISION GRANTING PETITION
Filed: March 21, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 50229-262	:	

This is a decision on the petition, filed August 9, 2004, 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 March 21, 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.

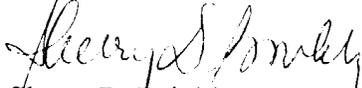
A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

The application is being returned to Technology Center Art Unit 1615 to await a reply to the final Office action mailed April 7, 2004. Failure to reply will again result in the abandonment of the application.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

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

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SEP 30 2002

OFFICE OF PETITIONS

In re Application of	:
Sharad Narayan et al	:
Application No. 09/812,988	: DECISION GRANTING
Filed: March 20, 2001	: STATUS UNDER 37 CFR 1.47(a)
For: METERING PUMPS FOR AN	:
AEROSOLIZER	:

This is in response to the petition under 37 CFR 1.47(a), filed January 10, 2002.

The petition is granted.

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

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

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

This application is being forwarded to the Initial Patent Examination Unit.

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

BEST AVAILABLE COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIRO S. CATER
1777 MITCHELL COURT
DAYTONA BEACH, FL 32124

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SEP 30 2002

OFFICE OF PETITIONS

In re Application of
Sharad Narayan; Yehuda Ivri; Cheng H. Wu; Miro S. Cater
Application No. 09/812,988
Filed: March 20, 2001
For: METERING PUMPS FOR AN AEROSOLIZER

Dear Mr. Cater:

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:

Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATTI , HEWITT & AREZINA LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO IL 60602

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
LaPorta, et al. :
Application No. 09/813,016 : **DECISION ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No. LUC-305/LaPorta 50-8-56-4 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed September 15, 2005, which set a three (3) month shortened statutory period for reply. An amendment was filed on January 17, 2006, with a request for an extension of time within the first month. An Advisory Action mailed April 19, 2006, indicated that the response of January 17, 2006, did not place the application in condition for allowance. A Notice of Abandonment was mailed on December 26, 2006.

The Notice of Appeal and Appeal Brief filed February 21, 2007, are noted.

The application file is being forwarded to Technology Center 2600, GAU 2616 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
www.uspto.gov

Paper No. 7

**WILLIAM P. RAMEY
INTERVET INC.
405 STATE STREET
P.O. BOX 318
MILLSBORO DE 19966-0318**

COPY MAILED

AUG 15 2002

OFFICE OF PETITIONS

In re Application of
Terry Allen Hauser et al
Application No. 09/813,093
Filed: March 19, 2001
Attorney Docket No. D/2000.688USPD

:
:
:
: **DECISION GRANTING PETITION**
: **UNDER 37 CFR 1.137(f)**
:

This is a decision on the petition, filed by facsimile transmission on July 8, 2002 and supplemented by facsimile transmission on August 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 or about March 19, 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 November 21, 2002 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 1653 for examination in due course.



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

ATTACHMENT: Corrected Filing Receipt



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Alexandria, VA 22313-1450
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AKZO NOBEL PHARMA PATENT DEPARTMENT
P O BOX 318
MILLSBORO, DE 19966

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of :
Terry Allen Hauser, et al. :
Application No. 09/813,093 :
Filed: March 19, 2001 :
Attorney Docket No. 2000.688USPD :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 24, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 25, 2004.

A review of the record indicates that the issue, publication and printed copies of patent fees were inadvertently charged twice. Accordingly, the additional \$1,660 charged, will be credited back to petitioner's deposit account number 02-2334 as authorized.

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) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The application file is being forwarded to the Publishing Division for further processing.

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

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



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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

SEP 02 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Ylian Saint-Hilaire, et al.
Application No. 09/813,099
Filed: March 19, 2001
For: **ROAMING IN A COMMUNICATION
NETWORK**

DECISION
ON PETITION

This is a response to the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed August 25, 2005. No fee is required.

This application became abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance and Issue Fee Due mailed May 3, 2005. A Notice of Abandonment has not been mailed.

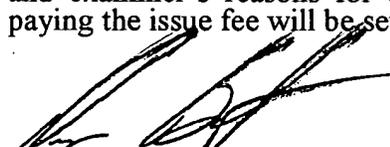
Petitioner asserts that the Notice of Allowance mailed May 3, 2005 was never received. In support therefore, Petitioner attests that the Office communication (Notice of Allowance) was not received at the correspondence address, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

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

Petitioner has met the requirements set forth above.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that Applicant also failed to receive the Notice of Allowability and examiner's reasons for allowance. The application will be forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability and examiner's reasons for allowance. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the new Notices.


Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

application SN = 09/813,129

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/05

TO SPE OF : ART UNIT 1763

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

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

Please complete this form and return with file within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ South Tower
Palm location 7580 - Tel. No. 305-8309

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

Check Drawings

E. Young

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:

Approved

PH

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

SPE

1792
Art Unit



ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

COPY MAILED

FEB 10 2006

OFFICE OF PETITIONS

In re Patent No. 6,961,584 :
Issued: November 1, 2005 : LETTER REGARDING PTA AND
Application No. 09/813,165 : NOTIFICATION OF INTENT TO ISSUE
Filed: March 21, 2001 : CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 2972-106 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed November 17, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application issued as U.S. Pat. No. 6,961,584 on November 1, 2005. The patent issued with a patent term adjustment (PTA) of 758 days. Patentees, however, indicate that there may be an error in the total amount of days determined and indicate that the application is believed to be entitled to an overall adjustment of 545 days as there were 820 days of Office delay and 275 days of applicant failure to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that at the time of issuance, the patent was entitled to an overall adjustment of 545 days.

In accordance with 37 CFR 1.702(a)(1), an adjustment of 678 days can be attributed to the Office for failure to mail at least one notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began May 22, 2002, the date that is 14 months after the date that the application was filed, and ended March 29, 2004, the date that the non-final Office action was mailed. See 37 CFR 1.703(a)(1).

In accordance with 37 CFR 1.702(a)(2), an adjustment of 110 days can be attributed to the Office for failure to respond to the response after non-final Office action filed August 30, 2004. The adjustment began December 31, 2004, the day after the date that is four months after the response after non-final Office action was filed, and ended April 19, 2005, the date the Notice of Allowance was mailed.

In accordance with 37 CFR 1.702(a)(4), a further adjustment of 32 days can be attributed to the Office for failure to issue the patent within four months of receipt of the issue fee payment. The adjustment began October 1, 2005, the day after the date that is four months after the date that the issue fee payment was received, and ended November 1, 2005, the date the patent issued. See 37 CFR 1.703(a)(6).

The adjustment is properly reduced a total of 275 days, as indicated by patentee. In accordance with 37 CFR 1.704(b), the adjustment of 820 days is reduced 62 days for failure to respond within three months of the date that the non-final Office action within. The reduction began June 23, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended August 30, 2004, the date a response to the non-final Office action was filed.

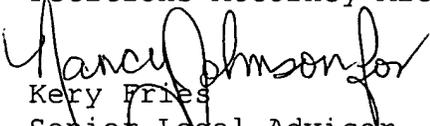
The adjustment of 820 days is further reduced 213 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed March 31, 2005. The reduction began August 31, 2004, the day after the date that the initial response was filed, and ended March 31, 2005, the date the IDS was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 545 days.

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

This application 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 545 days.

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: Draft Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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STEVEN W. THRASHER
JACKSON WALKER LLP
2435 NORTH CENTRAL EXPRESSWAY, #600
RICHARDSON, TX 75080

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of
Kenneth H. Crain, et al.
Application No. 09/813,231
Filed: March 19, 2001
Attorney Docket No. 108292.00007

:
:
:
:
:
:

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 (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STEVEN W. THRASHER
JACKSON WALKER LLP
2435 NORTH CENTRAL EXPRESSWAY, #600
RICHARDSON, TX 75080

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth H. Crain, et al. :
Application No. 09/813,231 : **ON PETITION**
Filed: March 19, 2001 :
Attorney Docket No. 108292.00007 :

This is a decision on the petition, filed May 31, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

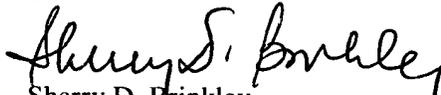
The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliance Amendment mailed April 13, 2005. A Notice of Abandonment was mailed on December 19, 2005. In response, on May 31, 2005, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,500.00; and (3) the requisite statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. 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.

The application file is being forwarded to Technology Center Art Unit 2144 for consideration of the amendment filed May 31, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT C. KLINGER
JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202



UNITED STATES PATENT AND TRADEMARK OFFICE

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

IPVENTURE, INC.
5150 EL CAMINO REAL
SUITE A-22
LOS ALTOS CA 94022

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MAY 29 2007

In re Application of
Franklin Goodhue Woodward et al
Application No. 09/813,235
Filed: March 19, 2001
Attorney Docket No. WVANP012

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed May 23, 2007 and resubmitted on May 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 October 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the Issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 3627 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions

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



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CHICAGO, IL 60610

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**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Keith Wood, et al. :
Application No. 09/813,279 :
Filed: March 19, 2001 :
Atty Docket No. 10743/6 :

This is a decision on the petition, filed November 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

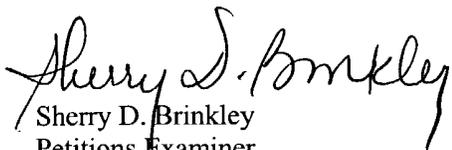
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The application is being referred to Technology Center AU 1654 for further processing of the request for continued examination under 37 CFR 1.114 filed November 29, 2004.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹The 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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Nicholas M. Boivin
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JUN 08 2006

OFFICE OF PETITIONS

In re Application of	:	
KEITH WOOD, et al	:	
Application No. 09/813,279	:	DECISION ON APPLICATION
Filed: March 19, 2001	:	FOR
Atty Docket No. 10743/6	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "Application for Correction of Patent Term Adjustment under 37 CFR 1.705(b)" filed April 4, 2005 requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicant requests that the initial determination of the patent term adjustment in this application be corrected from zero (0) days to forty-three (43) days.

The request for patent term adjustment is **DISMISSED**.

For the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0)** days, including five-hundred and ten (**510**) days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Background

On January 10, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was zero (0) days.

In response, applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e). Applicant requests that the patent term adjustment be corrected to a total of 43 days. The basis for this correction is 37 CFR 1.704. Applicant contends that the patent term should be adjusted because applicant timely filed the responses to the Notice to File Missing Parts (first non-compliant notice on sequence listings) mailed on May 23, 2001 and two Notices to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed on October 22, 2001 (second non-compliant notice on sequence listing) and on October 1, 2002 (third non-compliant notice on sequence listing).

Applicant contends that since a proper response was timely filed within three months of each non-compliant notice, the 446 days charged as applicant delay from the mailing of the first Notice of Missing Parts dated May 23, 2001 until the third response by applicant dated November 13, 2002¹ is in error. Applicant contends that the actual delay should be a total of 43 days as a result of a delay of 8 days in replying to the first sequence listing notice and a delay of 35 days from the filing of an Information Disclosure statement after a response under §1.704(c)(8).

Applicant also states that the 3 year delay under 37 CFR 1.703(b) should be 252 days (from March 19, 2004 to November 29, 2004 RCE filing).

Applicant also states that the patent issuing from the application is not subject to a terminal disclaimer

Relevant statutes and regulations

37 CFR § 1.704(c)(7) provides that:

Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the

¹ The actual PTO stamped receipt date is November 13, 2002 instead of November 12, 2002 as indicated on the petition and other PTO records. Hereinafter the correct date of November 13, 2002 will be used as the receipt date of the response to the Notice mailed on October 1, 2002.

reply or other paper correcting the omission was filed;

37 CFR § 1.704(c)(8) provides that:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

OPINION

Applicant's arguments and evidence have been considered, and in light of the application history, it has been determined that the initial period of adjustment is correct.

While applicant argues that compliant responses were timely filed to each of the three notices, the first and second responses dated July 26, 2001 and January 30, 2002 were not acceptable necessitating non-compliant communications regarding the same sequence listing requirement to applicant on October 22, 2001 and October 1, 2002, respectively. 37 CFR §1.704(c)(7) states that the period of adjustment begins on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. Since the first sequence listing filed on July 26, 2001 was filed having an omission and a complete and proper sequence listing was not received until November 13, 2002, four hundred and seventy-five (475) later, a delay of 475 days is correct.

A review of the file record reveals that the receipt date of the acceptable sequence listing response was incorrect in PALM and the PTA calculations. The actual postcard receipt date for the sequence listing is November 13, 2002 (instead of November 12, 2002). Accordingly, the applicant delay has been corrected to 475 days (instead of the previous 446 days.)

In response to applicant's comment regarding his calculations for the three-year date under §1.703(b) as being a total of 252 days. It is noted that applicant's date ranges are correct, but the calculation is in error. The actual number of days for the three-year delay from March 19, 2001 (filing date of the

application) to November 29, 2004 (filing of the RCE) is 255 days (instead of 252).

Conclusion

In view thereof, adjustments to the initial patent term calculations for USPTO delay as requested by applicant is not warranted and the petition is dismissed.

The USPTO delay is correct at 380 days and applicant delay has been adjusted to 510 days for a patent term adjustment of zero (0) days.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries specific to this matter should be directed to Amelia Au at 571.272.7414.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

Date: 6/7/2006

Time: 17:52:36

PALM INTRANET

PTA Calculations for Application: 09/813279

Application Filing Date:	03/19/2001	PTO Delay (PTO):	380
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	481
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	06/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		475	
63	06/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	446		
55	01/10/2005	MAIL NOTICE OF ALLOWANCE			
54	01/07/2005	ISSUE REVISION COMPLETED			
53	01/07/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	01/07/2005	NOTICE OF ALLOWABILITY			
51	11/29/2004	WORKFLOW - REQUEST FOR RCE - FINISH			
50	12/08/2004	DATE FORWARDED TO EXAMINER			
49	11/29/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	12/08/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	11/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	11/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
45	11/29/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	11/30/2004	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
43	11/29/2004	PETITION ENTERED			
42	11/29/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
41	06/14/2004	MISCELLANEOUS INCOMING LETTER			
40	10/06/2004	RECEIPT INTO PUBS			
39	07/26/2004	ISSUE FEE PAYMENT RECEIVED			
38	06/14/2004	WORKFLOW INCOMING PETITION IFW			
37	05/26/2004	SEQUENCE FORWARDED TO PUBS ON TAPE			
36	05/24/2004	RECEIPT INTO PUBS			

35	05/20/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
34	05/04/2004	MAIL NOTICE OF ALLOWANCE			
33	05/03/2004	ISSUE REVISION COMPLETED			
32	05/03/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	05/03/2004	NOTICE OF ALLOWABILITY			
30	02/17/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
29	02/24/2004	DATE FORWARDED TO EXAMINER			
28	02/17/2004	RESPONSE AFTER NON-FINAL ACTION			
27	11/28/2003	MAIL NON-FINAL REJECTION			
26	11/17/2003	NON-FINAL REJECTION			
25	09/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		35	23
24	09/03/2003	DATE FORWARDED TO EXAMINER			
23	08/25/2003	RESPONSE AFTER NON-FINAL ACTION			
22	06/03/2003	MAIL NON-FINAL REJECTION	380		-1
21	06/02/2003	NON-FINAL REJECTION			
20	04/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
19	03/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	12/12/2002	APPLICATION DISPATCHED FROM OIPE			
16	12/11/2002	APPLICATION IS NOW COMPLETE			
13	11/12/2002	ADDITIONAL APPLICATION FILING FEES		446	4
12	11/12/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	12/09/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
10	10/01/2002	SEQUENCE ERRORS			
9	01/30/2002	ADDITIONAL APPLICATION FILING FEES			
8	01/30/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	03/08/2002	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
6	10/22/2001	SEQUENCE ERRORS			
5	09/12/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
4	05/23/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			

3	05/23/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/04/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/19/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHICAGO IL 60610

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JUN 09 2006

OFFICE OF PETITIONS

In re Application of	:	
KEITH WOOD, et al	:	
Application No. 09/813,279	:	DECISION ON APPLICATION
Filed: March 19, 2001	:	FOR
Atty Docket No. 10743/6	:	PATENT TERM ADJUSTMENT
	:	

This is in response to the "Application for Correction of Patent Term Adjustment under 37 CFR 1.705(b)" filed June 14, 2004 requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance mailed on May 4, 2004. Prior to a decision being rendered on this petition, applicant withdrew the application from issue on November 29, 2004 and later filed a further petition addressing the same issues on April 4, 2005 with respect to the Notice of Allowance mailed on January 10, 2005. By the petition decision mailed on June 8, 2006, the petition filed April 4, 2005 was DISMISSED.

In view thereof, the instant petition is **DISMISSED AS MOOT**.

Given that consideration of this petition has been fully addressed in the other petition and that the fee set forth in 37 CFR 1.18(e) was charged on the petition filed April 4, 2005, the fee of \$200 submitted with the instant petition is being refunded to Deposit Account No 23-1925, as unauthorized.

Telephone inquiries specific to this matter should be directed to Amelia Au at 571.272.7414.

Key A Fees for

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,304	03/21/2001	Katsunori Nishii	740819-529	1540

22204 7590 08/19/2004
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

EXAMINER

TOLEDO, FERNANDO L

ART UNIT PAPER NUMBER

2823

DATE MAILED: 08/19/2004

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



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

August 17, 2004

NIXON PEABODY LLP
8180 Greensboro Drive
Suite 800
McLean, VA 22102

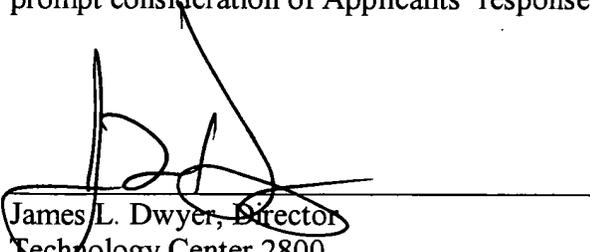
In re Application of Katsunori NISHII et al. :
Application No. 09/813,304 : *DECISION SUA SPONTE*
Filed: March 21, 2001 : WITHDRAWING HOLDING
Attorney docket No. 740819-529 : OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

An Office communication was mailed on April 15, 2003, stating that a reference relevant to the examination of the instant application may soon become available and that *ex parte* prosecution was suspended for a period of three months from the date of the aforementioned communication. However, on July 23, 2004, this application was abandoned for "Applicant's failure to timely file a proper reply to the Office letter mailed on 15 April 2003."

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that the prosecution was suspended by the Office.

The application is being restored to pending status and forwarded to the assigned art unit for prompt consideration of Applicants' response under 37 C.F.R. § 1.111 filed February 5, 2003.


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



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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Dougherty & Troxell
5205 Leesburg Pike
Suite 1404
Falls Church, VA 22041

Paper No. 7

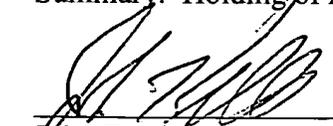
In re Application of	:	DECISION ON PETITION
Chuan-Show Chen	:	TO WITHDRAW
Serial No. : 09/813,314	:	HOLDING OF
Filed : March 21, 2001	:	ABANDONMENT
For : Muscle Strengthening Method and Apparatus	:	

This is a decision on petitioner's request filed May 16, 2003 and supplemented on June 5, 2003, to review the holding of abandonment mailed May 12, 2003 for failure to respond to the Office action mailed September 24, 2002. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included a request for a three-month extension of time, and a PTO stamped receipt dated March 19, 2003.

In view of the above, the Notice of Abandonment mailed May 12, 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 entry and consideration of the response filed March 19, 2003.

Summary: Holding of Abandonment Withdrawn.



John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/6/9/03



JFW 1761 PET DEC

Approved for use through 11/30/2005. OMB 0651-0035 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.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/813,327
Filing Date	March 20, 2001
First Named Inventor	Remy F. Gross
Art Unit	1761
Examiner Name	C. Sherrer
Attorney Docket Number	KAI75/4-002DIV/58001

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved DEC 13 2004
JM Stone

Please withdraw me as attorney or agent for the above identified patent application, and

Jacqueline M. Stone, Director
Technology Center 1700

- all the attorneys/agents of record.
- the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

Applicant and Agent of Record have agreed that we will no longer represent applicant concerning this patent application.

CORRESPONDENCE ADDRESS

- 1. The correspondence address is NOT affected by this withdrawal.
 - 2. Change the correspondence address and direct all future correspondence to:
- Customer Number:

OR

<input checked="" type="checkbox"/> Firm or Individual Name	Remy F. Gross II, President		
Address	KAIROS CORPORATION		
Address	1535 Market Street		
City	Shreveport	State	LA
		Zip	71101
Country	USA		
Telephone		Fax	
Name	Timothy S. Corder		
Signature	<i>Timothy S. Corder</i>	Registration No.	38,414
Date	10-22-04	Telephone No.	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/28/08
Patent No. : 7037676
Inventor(s) : Carroll et al.
Issued : 5/2/2006
Title : DROSOPHILA TUMOR NECROSIS FACTOR CLASS MOLECULE
(DmTNFv2) POLYNUCLEOTIDES AND VARIANTS THEREOF
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [54] is printed in accordance with the record and Novel can not be the first word in the title. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/5/08 Paper No.: _____
TO SPE OF : ART UNIT 1647 Rao Manjunath N (Spe)
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/813329 Patent No.: 7037676

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: According to MPEP 8606, the use of
the word "Novel" in the title is should
not be included in the title. The request for COC
filed on 9/23/08 continues to use the word "Novel" in
the title

Manjunath
SPE

1657
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/10/10

TO SPE OF : ART UNIT 1647 Sekaraseyan Jegatheesan

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/813329 Patent No.: 7037676

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580



Certificates of Correction Branch
703-756-1571 _____

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.

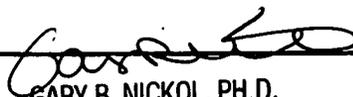
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____


GARY B. NICKOL, PH.D.
SUPERVISOR BY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1646
Art Unit



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COMMISSIONER FOR PATENTS
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Paper No. 7

WALLENSTEIN & WAGNER
53RD FLOOR
311 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6630

COPY MAILED

OCT 15 2001

OFFICE OF PETITIONS

In re Application of	:	
Sidney T. Smith et al	:	
Application No. 09/813,351	:	DECISION ON PETITION
Filed: March 19, 2001	:	
Attorney Docket No. CRTS-5679	:	
(1417A P 450)	:	

This is a decision on the paper styled "Request For corrected Filing Receipt" filed April 12, 2001, requesting that the above-identified application be accorded a filing date of March 19, 2001, rather than the presently accorded filing date of March 16, 2001. The petition is properly treated as a petition under 37 CFR 1.10(d).

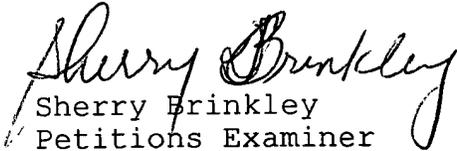
Applicants request the later filing date on the basis that the application was purportedly deposited in "Express Mail" service with the U.S. Postal Service on March 19, 2001, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail label No. EL626160200US shows a "date-in" of March 16, 2001. Applicants allege that the date of mailing shown by the Express Mail receipt is a U.S. Postal Service (USPS) error and the correct date of mailing is March 19, 2001. It is noted that the same Express Mail label number appears on the original transmittal letter in the file and includes a statement of express mailing under 37 CFR 1.10 dated March 19, 2001.

A search of the USPS Track and Confirm record confirms that the package in question was accepted at 6:01pm at the USPS in Chicago, IL on March 19, 2001. Accordingly, the petition is granted.

Receipt is acknowledged of the basic filing fee, a petition for a two month extension of time, and the declaration filed with the instant petition, in response to the Notice mailed April 27, 2001.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of March 19, 2001, and to update the Office records to show all the inventors' name, city, and state on the corrected Filing Receipt.

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

Enclosure: Express Mail Track/Confirm Sheet



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 145
ALEXANDRIA, VA 22313-145
www.uspto.gov

MAY 24 2004

David S. Safran
NIXON PEABODY, LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004-2128

MAILED
MAY 24 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of:
Manfred Pfalzgraf
Application No. 09/813,353
Filed: March 21, 2001
Attorney Docket No. 740123-351

**DECISION ON PETITION
UNDER 37 CFR 1.181**

This is in response to the petition filed on March 8, 2004 under 37 CFR 1.181(a)(1) requesting the Director to require the examiner to withdraw an objection to the drawings of the above-captioned patent application.

The petition is **GRANTED**.

A review of the record reveals that the examiner objected to the drawings under 37 CFR 1.183 for failing to show every feature of the claims in the Final Rejection dated September 11, 2003. Specifically, the objection to the drawings noted that the proposed drawing corrections dated October 15, 2002 were not approved. The examiner further argued that there was no prior art mechanism of record that would produce the claimed movement.

The Petitioner asks the Director to reverse the Examiner's decision with regard to the objection to the drawings, or in the alternative to waive 37 CFR 1.83, and approve the drawings submitted October 15, 2002.

The proposed drawing changes added a schematic showing of three "swing-in mechanisms S" in Figures 2A-2D and 3A-3C.

Petitioner argues that the schematic depictions of the swinging mechanisms for raising and lowering the covers are consistent with the original disclosure and adequately illustrate the claimed subject matter. Petitioner further argues that the specific means to produce the claimed movements of the covers is not the invention.

In accordance with 37 CFR 1.83(a) and MPEP 608.02(d), "the drawings in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical

drawing symbol or labeled representation". The claims of the instant application recite specific movements of the front and rear covers, but do not recite the specific means to affect the movements. The proposed drawing changes show the movements of the covers, as well as the schematic depictions of the swinging mechanisms. Thus, the proposed drawing changes are consistent with 37 CFR 1.83(a) since a detailed depiction of the swinging mechanisms is not required by the claims. Therefore, the proposed drawing changes adequately illustrate the claimed subject matter.

The drawing objections under 1.83(a)(b) are hereby withdrawn. Furthermore, the proposed drawing correction filed October 15, 2002 is approved. This application will be forwarded to the examiner of record for prompt consideration of applicant's appeal brief.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (703) 308-3102.



Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

^{RL}
RO:dgd:5/13/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/6/09

Paper No.:

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/813354 Patent No.: 6941507 A2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

Adam J. Borcher
SPE

2178
Art Unit



Paper No. 11

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

SEP 05 2006

OFFICE OF PETITIONS

In re Application of :
Murao et al. :
Application No. 09/813,372 : DECISION ON PETITION
Filed: 12 March, 2001 :
Atty Dcket No. 2796/100G216-US1 :

This is a decision on the petition filed on 30 June, 2006 (certificate of mailing date 18 March, 2002), which is treated as a petition under 37 CFR 1.137(b),¹ 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 utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

The application became abandoned on 5 December, 2001, for failure to timely file a proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 4 May, 2001, which set a two (2) month shortened period for reply. A five (5) month extension of time under 37 CFR 1.136(a) was obtained. Notice of Abandonment was mailed on 18 January, 2002.

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

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



Douglas I. Wood
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, D.C. 20231
www.uspto.gov

Paper No. 6

**KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE, SIXTEENTH FLOOR
NEWPORT BEACH CA 92660**

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JAN 23 2002

OFFICE OF PETITIONS

In re Application of	:
Bruce D. Weintraub et al	:
Application No. 09/813,398	: DECISION ON PETITION
Filed: March 20, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UOFMD.003C1	:

This is a decision on the petition under 37 CFR 1.78(a)(2), filed December 4, 2001, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 USC § 365(c) for the benefit of one or more prior filed international applications designating the United States of America (Application No. PCT/US99/05908, filed March 19, 1999, and Application No. PCT/US98/19772, filed September 22, 1998).

The petition is dismissed as moot for the reason stated below.

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 under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of one or more prior filed nonprovisional applications or international applications under 35 USC § 365(c) must be accompanied by:

(1) the surcharge of \$1,280 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)(2) and the date the claim was filed was unintentional; and

(3) the specification must contain or be amended to contain a reference to each prior filed copending nonprovisional or international application or be included in an application data sheet (ADS) (37 CFR 1.76) as required by 35 USC 120 and 37 CFR

1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

While the reference to the prior filed international applications was not included in the manner specifically set forth in 37 CFR 1.78(a)(2), i.e., the reference failed to indicate that the international applications designated the United States of America and were published in English under PCT Article 21(2),¹ the first sentence following the title of the specification did in fact include a reference to the prior filed international applications. Therefore, since the application will be scheduled for publication on the basis of the information concerning the claim contained in the specification as provided by 35 USC 120 and 37 CFR 1.78(a)(2), the filing of the instant petition under 37 CFR 1.78(a)(3) is unnecessary and is dismissed as involving a moot issue.

In view of the above, no fee is required for the instant petition. Therefore, as authorized, the \$1,280 fee submitted with the petition will be credited to Deposit Account No. 11-1410 in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for mailing of a corrected filing receipt with the projected publication date. Afterwards, this application will be forwarded to Technology Center AU 1653 for processing the amendment filed December 4, 2001 and for consideration by the examiner of the claim under 35 USC 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior filed international applications, Application Nos. PCT/US99/05908, filed March 19, 1999, and PCT/US98/19772, filed September 22, 1998.



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

¹ The requirement in 37 CFR 1.78(a)(2) for a statement that the reference to the international application must indicate whether the international application was published under PCT Article 21(2) in English was eliminated effective December 28, 2001. Note 66 F.R. 67087, at 67088 (Dec. 28, 2001).



Paper No. 9

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

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MAY 0 5 2004

In re Application of
Hong Lin et al
Application No. 09/813,445
Filed: March 20, 2001
Attorney Docket No. 09695-004001

OFFICE OF PETITIONS
ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 1, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being forwarded to Technology Center AU 2877.

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



WOLF GREENFIELD & SACKS PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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JUN 10 2002

OFFICE OF PETITIONS

In re Application of
Wagner, et al.
Application No. 09/813,454
Filed: March 20, 2001
Attorney Docket No. A0770/7037 GSE

DECISION ON PETITION

This is a decision on the petition filed March 7, 2002 (Certificate of Mailing dated March 1, 2002), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit substitute drawings in response to the Notice to File Missing Parts of Nonprovisional Application, mailed May 23, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit the filing fees, an executed oath or declaration (and surcharge for its late filing), and substitute drawings. On January 16, 2002 (Certificate of Mailing dated December 18, 2001), petitioner replied with an executed declaration and filing fees.¹ However, because petitioner did not submit proper substitute drawings under 37 CFR 1.84, the application went abandoned on December 24, 2001. A Notice of Incomplete Reply was mailed on January 29, 2002. The mailing of the instant decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted substitute drawings (in addition to filing fees), 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.

Petitioner was not charged for an extension of time when he submitted his reply to the Notice to File Missing Parts on

¹ Although petitioner did not submit the entire filing fee amount in his January 16, 2002 response to the Notice to File Missing Parts, petitioner included an authorization to charge any missing fees to his deposit account. Accordingly, the filing fees should have been charged, and petitioner should not have received a Notice of Incomplete Reply with respect to the filing fees. However, as petitioner failed to submit substitute drawings, the application did in fact go abandoned, and the issue is moot.

January 16, 2001. The necessary five month extension of time fee (\$980) to make that reply timely has now been charged to Deposit Account No. 23-2825, as authorized by the General Request for an Extension of Time, filed January 16, 2001.

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



Paper No. 19.

Pillsbury Winthrop LLP
50 Fremont Street
San Francisco CA 94105**COPY MAILED**

JAN 08 2004

OFFICE OF PETITIONS

In re Application of :
Warren et al. :
Application No. 09/813,463 : DECISION GRANTING PETITION
Filed: March 20, 2001 :
Attorney Docket No. 098810/0278740 :

This is a decision on the petition under 37 CFR 1.53(e), filed January 11, 2002, and resubmitted by facsimile transmission on November 18, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2001. The present petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to applicants.

On March 20, 2001, applicants deposited the above-identified application. On November 29, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date of receipt of the items.

In response, on January 11, 2002, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 19 sheets of drawings (Figures 1-18) on March 20, 2001. Additionally, applicants submitted a copy of the 19 sheets of drawings, consisting of Figures 1-18. Thereafter, the Office of Initial Patent Examination accorded the above-identified application a filing date of January 11, 2002, the date of receipt of the drawing sheets.

Upon review of the record, the 19 sheets of drawings deposited on March 20, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 20, 2001, included 19 drawing sheets, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including 19 drawing sheets, was complete on filing and will be granted a filing date of March 20, 2001.

Accordingly, the petition is granted.

The drawings requirement set forth in the "Notice of Incomplete Nonprovisional Application," mailed November 29, 2001, was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 03-3975, as requested.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to March 20, 2001, using Figures 1-18 submitted with the original petition, and to mail a corrected filing receipt reflecting the change. The Office records should indicate that 19 sheets of drawings were submitted 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



Oct 14 2004

Jane K. Babin
Pillsbury Winthrop LLP
50 Fremont Street
San Francisco CA 94105

In re Application of:
Warren et al.
Serial No.: 09/813,463
Filed: March 20, 2001
Attorney Docket No.: 098810/0278740

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on May 24, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed May 29, 2003.

A review of the file history shows that the examiner mailed a Office action to applicants on May 29, 2003, setting a three month statutory time period for reply. On April 22, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action and a petition for a three- month extension of time were timely filed on December 1, 2003, as evidenced by the properly executed Certificate of First Class Mailing on the reply. Applicants provide copies of relevant documents. The petition meets all of the requirements set forth in 37 CFR § 1.8. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as the case is no longer in abandoned status.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600



Paper No. 6

MICROSOFT CORPORATION
Law Offices of Ronald M. Anderson
600 18th Avenue, N.W., Suite 507
Bellevue, WA 98004

In re Application of	:	
BRUNO Silva	:	
Serial No.: 09813466	:	
Filed: March 20, 2001	:	
For: MORPH BASED REAL-TIME RENDERING	:	DECISION ON PETITION
		ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) October 17, 2003, requesting acceptance of color drawings.

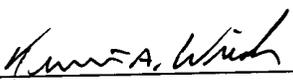
The petition requests that the color drawings identified in Figures 2 – 8, and 12 – 17, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

“The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.”

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision

The petition is **GRANTED**.



 Kenneth A. Wieder
 Special Program Examiner
 Technology Center 2600
 Communications



UNITED STATES PATENT & TRADEMARK OFFICE #6
 UNDER SECRETARY OF COMMERCE FOR
 INTELLECTUAL PROPERTY AND DIRECTOR OF THE
 UNITED STATES PATENT AND TRADEMARK OFFICE
 Washington, D.C. 20231

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MAILED

JAN 02 2003

DIRECTOR'S OFFICE
 TECHNOLOGY CENTER 3600

J. Folkmar
 392 Lakeshore Road East
 Oakville, ON L6J 1J8
 Canada

In re Application of
 Jan Folkmar
 Application No. 09/813,476
 Filed: March 22, 2001
 For: HINGED CLIP WITH SEPARABLE JAWS

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 September 19, 2002 and supplemented on November 11, 2002.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed on February 25, 2002 wherein a three-month statutory period to respond was set. A response has not been matched with the file. Therefore, the application is abandoned, although a Notice of Abandonment has yet to be mailed.

Applicant asserts that a response was timely filed on April 5, 2002. A postcard receipt bearing an Office receipt date of April 5, 2002 is included with the petition. This is accepted as sufficient evidence of timely receipt of the response.

The application is being forwarded to the to the Supervisory Legal Instruments Examiner to process the amendment filed April 5, 2002. Thereafter, it will be forwarded to the examiner for prompt action on the amendment filed April 5, 2002.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth Dorner at (703) 308-0866.

 Kenneth J. Dorner
 Special Programs Examiner
 Patent Technology Center 3600
 (703) 308-0866

Kjd:12/23/02



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

J. Folkmar
392 Lakeshore Road East
Oakville, ON L6J 1J8
CANADA

COPY MAILED

SEP 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Jan Folkmar	:	
Application No. 09/813,476	:	ON PETITION
Filed: March 22, 2001	:	
Attorney Docket No. PAG 001	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 14, 2003, 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 (1) above.

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 draftsman has not approved the drawings submitted with the petition. A copy of the "Notice of Draftsperson's Patent Drawing Review" is attached herewith. This application cannot be revived until corrected formal drawings are received.

The terminal disclaimer filed with the instant petition is unnecessary and will not be processed. Accordingly, a refund of the \$55 fee may be requested by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The authorization to charge the issue fee submitted to the Office by facsimile transmission on June 10, 2003 has been located.

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

By Mail: U. S. Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

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 Marianne Morgan at (703) 306-3475.



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

Attachment: Notice of Draftsperson's Patent Drawing Review (PTO 948)



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth M. Garrett
392 Lakeshore Road East
Oakville, Ontario L6J 1J8
CANADA

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Jan Folkmar :
Application No. 09/813,476 : **ON PETITION**
Filed: March 22, 2001 :
Attorney Docket No. POLAAP102US :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 8, 2005¹, 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;² (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 (1).

¹ The renewed petition was originally filed via Federal Express and received in the USPTO on October 8, 2003. Unfortunately, the drawings were misplaced in the Office and any inconvenience caused to applicant is regretted.

² 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.

While petitioner has provided a new set of drawings, as required by the Notice of Allowability and mentioned in the previous decision on petition, the drawings cannot be accepted. A "Notice of Draftsperson's Patent Drawing Review" is attached herewith. The application cannot be revived until acceptable drawings are received.

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

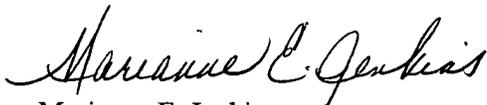
By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
 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

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

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



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

Attachment: Notice of Draftsperson's Patent Drawing Review



UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH M. GARRETT
392 LAKESHORE ROAD EAST
OAKVILLE, ONTARIO L6J 1J8
CANADA

COPY MAILED

SEP 20 2006

In re Application of :
Jan FOLKMAR :
Application No. 09/813,476 :
Filed: March 22, 2001 :
Attorney Docket No. POLAAP102US :

OFFICE OF PETITIONS

ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of drawings and payment of the issue fee; (2) the petition fee of \$110; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions



Paper No. 6

**RICHARD L. SAMPSON
SAMPSON & ASSOCIATES P.C.
50 CONGRESS STREET
BOSTON, MA 02109**

COPY MAILED

MAY 28 2003

OFFICE OF PETITIONS

In re Application of	:	
Kenneth E. Madsen et al.	:	
Application No. 09/813,522	:	ON PETITION
Filed: March 21, 2001	:	
Attorney Docket No. 1109.003CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 30, 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 July 1, 2001.

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 27 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

AVAYA INC.
307 MIDDLETOWN-LINCROFT ROAD
ROOM 1N-391
LINCROFT, NJ 07738

In re Application of
Simon D. Boland
Application No. 09/813,525
Filed: March 21, 2001
For: VOICE-ACTIVITY DETECTION USING
ENERGY RATIOS AND PERIODICITY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action filed March 7, 2005.

The application became abandoned due to failure to timely respond to the non-final Office action mailed March 17, 2004. A Notice of Abandonment was mailed March 7, 2005.

Petitioner has alleged non-receipt of the non-final Office action. In the petition, the petitioner has provided a statement that the non-final Office action was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

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

A review of the record indicates that the non-final 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 Patent and Trademark Office.

The petitioner states that the Office action was not received and attests that he has searched the file jacket of the above-identified application and that he has had the Avaya Docket Administrator search the docket records. However, the petition does not comply with the requirement of a successful petition to withdraw the holding of abandonment due to the lack of a statement from the Practitioner attesting to a personal search of the docket records and indicating that the Office action was not received.

Accordingly, the petition is **DENIED**.

Should petitioner desire reconsideration, he or she should supplement this petition with a statement as outlined above.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and should provide the docket records and supplemental statement referencing the docket records as outlined above.



Doris To
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

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

AVAYA INC.
307 MIDDLETOWN-LINCROFT ROAD
ROOM 1N-391
LINCROFT, NJ 07738

AUG 1 0 2005
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Simon D. Boland
Application No. 09/813,525
Filed: March 21, 2001
For: VOICE-ACTIVITY DETECTION USING
ENERGY RATIOS AND PERIODICITY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the request for reconsideration filed June 24, 2005, based on MPEP 711.03(c)(II), a pursuant to 37 CFR 1.181(a), to withdraw holding of abandonment.

The application became abandoned due to failure to timely respond to the non-final Office action mailed March 17, 2004. A Notice of Abandonment was mailed March 7, 2005.

Petitioner alleges that the non-final Office action was not received.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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 Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. In addition, a further review of the record indicates that the zip code of the correspondence address was entered incorrectly. The Office did in fact mail the non-final Office action to an incorrect correspondence address. In view thereof, there was an irregularity in the mailing of the non-final Office action on March 17, 2004, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to Petitioner. Accordingly, the application file was not abandoned in fact and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

Given the original mailing date of the non-final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. The time period for response

will be restarted from the mail date of the new Office action.

A handwritten signature in black ink, appearing to read 'Doris To', written over a horizontal line.

Doris To
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MAILED
FROM DIRECTORS OFFICE**

AUG 10 2006

TECHNOLOGY CENTER 3600

Michael Zalobsky
Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

In re application of :
Daniel J. Lubera et al. :
Application No. 09/813,592 :
Filed: March 21, 2001 :
For: RESILIENT CLIP FASTENER :

**DECISION ON PETITION
TO VACATE FINAL
RESTRICTION REQUIREMENT**

This is a decision on the petition, filed March 9, 2006, under 37 CFR §1.181, seeking review of the decision of the primary examiner. Petitioner requests vacating the species restriction/election requirement made final on February 27, 2006.

The petition is **DENIED**.

A review of the file record reveals in an Office Action dated November 22, 2005, an election/restriction requirement was made between three species. The Petitioner elected species 1, with traverse, on December 5, 2005, and received an Office action on the merits of species 1 on February 27, 2006, which addressed Petitioner's arguments, and made the restriction/election requirement final and withdrew claims 122-162.

The Petitioner states that the Office has not set forth a proper requirement for restriction, in that it has not met the two criteria for a proper requirement for restriction between patentably distinct inventions (remarks, pg 2 of 4, lines 8-11). The argument is not on point because a species restriction is not a restriction between patentably distinct inventions, merely between species of the same invention. With regard to Petitioner's assertion that there is no serious burden on the Office, the Examiner has responded to the point in the final restriction requirement, that it is not the number of claims that currently exist in the application, but that the number of claims added throughout the prosecution of the application that have, and continue to, expand the scope of each species that demonstrate the burden to the Office.

Finally, the Petitioner argues that the current examiner must give full faith and credit to the prosecution of the previous examiner, therefore the current examiner cannot give a restriction requirement where the previous examiner did not (petition, page 3 of 4). This is not persuasive because Petitioner's citation of MPEP 704 is drawn to giving full faith and credit to a previous examiner's search and action, unless there is knowledge of other prior art—that a new search should not be conducted in the mere hope of finding something. This passage of the MPEP does not speak to restriction requirements, it speaks to use of the prior art. Further, the current examiner clearly was aware of art specifically requiring further search—which is what actually prompted the need for the restriction requirement. It is clear that the current examiner is not conducting a new search merely hoping to find something.

It is clear from the Office action dated February 27, 2006 that the Examiner fully considered and addressed the arguments submitted by the applicants. It is also determined the restriction/election requirement between species is appropriate according to the MPEP and rules of practice.

SUMMARY: The Petition to Vacate the Restriction Requirement and examine all the claims present is **DENIED**.

Questions regarding this decision should be directed to Judy Swann at (571) 272-7075.



Donald T. Hajec
Director
Patent Technology Center 3600
(571) 272-5150

js/snm: 8/6/06





UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

WILSON & HAM
PMB: 348 2530 BERRYESSA ROAD
SAN JOSE CA 95132

MAILED

APR 28 2003

Technology Center 2600

In re Application of
Dumitru Gruia
Application No. 09/813,715
Filed: March 20, 2001
For: POINT-TO-MULTIPOINT OPTICAL
ACCESS NETWORK DISTRIBUTED WITH
CENTRAL OFFICE INTERFACE CAPACITY

:
:
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:
DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 11, 2003.

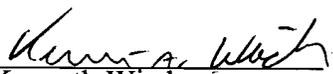
A grantable request to withdraw as attorney/agent of record must:

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

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

All of the attorneys of record are granted the request for withdraw of attorney/agent.

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


Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Alloptic, Inc.
2301 Armstrong Street, Suite 101
Livermore, CA 94550



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 3 2004

Paper No. 080204

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

In re Application of:	:	
RONALD H. CLARK	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 09/813,810	:	FROM RECORD
Filed: March 22, 2001	:	
Attorney Docket No.: 040092-010900US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 6, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.



 Jose G. Dees, Special Programs Examiner
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components

cc: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

SN 09813810
COCK

SP

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2004

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6782330

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-915

Palm location 7580 - Tel. No. 305-8309

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Patrick Assouad 12/25/05
PATRICK ASSOUAD
PRIMARY EXAMINER

Marc S. Hoff
MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2900

57

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2004

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6782330/109813810

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

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Patrick Assouad 12/25/05

PATRICK ASSOUD
PRIMARY EXAMINER

Marc Hoff MARC S. HOFF

SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER 10172809



#5 03CO
Box 509m

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Of:)	
Bert VOGELSTEIN et al.	)	Group Art No. 1655
Serial No: 09/813,824	)	Examiner: TBA
Filed: March 22, 2001	)	Docket No. 01107.00112
For: SEQUENCE SPECIFIC DNA BINDING BY P53)	

RESPONSE TO NOTICE TO COMPLY

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

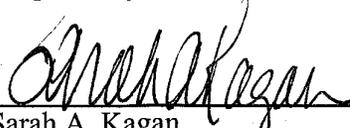
Sir:

In Response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed February 15, 2002, a computer readable form is provided herewith. The contents of the paper copy filed March 22, 2001 and the computer readable form submitted herewith are believed to be the same. It is believed that the sequence listing contains no new matter. Applicants believe that all objections to the sequence rules compliance have been overcome. No fee is believed to be due. However, if such a fee is deemed necessary, please charge to Deposit Account No. 19-0733.

Respectfully submitted,

Date: April 5, 2002

By:



Sarah A. Kagan
Registration No. 32,141

BANNER & WITCOFF, LTD.
1001 G Street, N.W., Eleventh Floor
Washington, D.C. 20001-4597
(202) 508-9100



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/RECEIVED DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/813,824	03/20/2002	Bert Vogelstein	01107.00112

22907
BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

CONFIRMATION NO. 8421
FORMALITIES LETTER



OC00000007485639

Date Mailed: 02/15/2002

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE
DISCLOSURES**

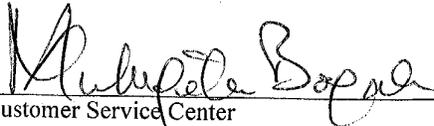
Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 17 2005

In re Application of :
Mitsuru Sato et al :
Application No. 09/813,898 :
Filed: March 22, 2001 :
Attorney Docket No. 041514-5114 :

OFFICE OF PETITIONS

ON PETITION

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

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

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

This matter is being referred to Technology Center AU 2652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

cc:
Drinker Biddle & Reath LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209

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).

T 1

SECTOR
\$ Page 1 of 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FILING COMPLETION UNDER RULE 53(f)

(NOT PCT Applications)
For Design, Provisional, or Utility Applications

PATENT
APPLICATION



COMPLETION Under Rule 53(f)

In re PATENT APPLICATION of

Attn: Application Division

Inventor(s): MÖCKEL et al.

Appln. No.: 09 | 813,919 | Atty.Dkt. P 277862 | 990217 BT
Series Code ↑ Serial No. ↑ M# Client Ref

Filed: March 22, 2001

Title: Nucleotide Sequences Coding for the DapC Gene and Process for the Production of L-Lysine

Hon. Commissioner of Patents
Washington, DC 20231

Date: June 20, 2001

Sir:

The following **completes the filing** under Rule 53(f) of the above-identified patent application:

- 1. **Notice to File Missing Parts** copy attached not yet received
- 2. Signed Declaration attached. Original Facsimile/Copy

(Always "X" box 2 if filling signed Declaration and

"X" box 2A only if top box of the Declaration is X'd and file application copy, or

"X" box 2B only if none of the top three boxes of the Declaration is X'd.)

- 2A. Attached: Original signed Declaration with attached specification (including claim(s)) which is a copy of specification and claim(s) originally filed to secure the above filing date.
- 2B. The original application as filed in the PTO on the above filing date is the application which each inventor executed by signing the attached Rule 63 Declaration.

3. Specification originally filed in non-English language; hence verified translation attached of:

- a. Abstract
- b. # pages of Specification (only spec. & claims)
- c. Drawing(s) No of Sheets
- Fig(s).

- 4. Letter filing formal drawing attached.
- 5. Attached is an assignment and cover sheet. Please return the recorded assignment to the undersigned.
- 6. **DOMESTIC/INTERNATIONAL** priority is claimed under 35 USC 119(e)/120/365(c) based on the following provisional, nonprovisional and/or PCT international application(s):

Application No.	Filing Date	Application No.	Filing Date
(1)		(2)	
(3)		(4)	
(5)		(6)	

7. **FOREIGN** priority is claimed under 35 USC 119(a)-(d)/365(b) based on filing in GERMANY

8.

Application No.	Filing Date	Application No.	Filing Date
(1)	DE 100 14 546.9	(2)	
(3)		(4)	
(5)		(6)	

Completion Under Rule 53(b)

9. _____ (No.) Certified copy (copies): attached; previously filed (date) _____
in U.S. Application No. _____ / _____ filed on _____
10. Small Entity Status is Not claimed is claimed (file PAT-256 if this is the first claim of Small Entity Status)
11. Attached:
12. Amendment to Comply with Sequence Listing: See attached

THE FOLLOWING FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY ABOVE CANCELLED

				Large/Small Entity		Fee Code	
13. Basic Filing Fee				Design Application	\$320/\$160		106/26
				Not Design Application	\$710/\$355	+710	101/201
14. Total Effective Claims	28	minus 20 =	8	x \$18/\$9	+144		103/203
15. Independent Claims	3	minus 3 =	0	x \$80/\$40	+0		102/202
16. If <u>any proper</u> multiple dependent claim (ignore improper) is present, (Leave this line blank if this is a reissue application)					\$270/\$135	+270	104/204
17. Surcharge for filing Declaration/filing fee late					\$130/\$65	+130	105/205
18.				FILING FEE ENCLOSED =		\$1254	
19. Original due date: June 23, 2001							
20. Petition is hereby made to extend the original due date to cover the date this response is filed for which the requisite fee is attached				(1 mo)	\$110/\$55 =	+0	115/215
				(2mos)	\$390/\$195 =		116/216
				(3mos)	\$890/\$445 =		117/217
				(4mos)	\$1390/\$695 =		118/218
21. If "non-English" box 3 is X'd, add Rule 17(k) processing fee					\$130	+0	139
22. If "assignment" box 5 is X'd, add recording fee					\$40	+40	581
23. Petition Fee for					\$130	+0	
24.				TOTAL FEE ENCLOSED =		\$1294	

Our Deposit Account No. 03-3975

Our Order No. 21123

C#

277862

M#

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. **This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.**

**Pillsbury Winthrop LLP
Intellectual Property Group**

1100 New York Avenue, NW
Ninth Floor
Washington, DC 20005-3918
Tel: (202) 861-3000
Atty/Sec: MAS/AMX

By Atty: Michael A. Sanzo

Reg. No. 36912

Sig:



Fax: (202) 822-0944

Tel: (202) 861-3020

NOTE: File in duplicate with PTO receipt (PAT-103A) and attachments



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
09/813,919	03/22/2001	Bettina Mockel	P 277862 990217 BT

CONFIRMATION NO. 1875

00909
 PILLSBURY WINTHROP LLP
 1100 NEW YORK AVENUE, N.W.
 9TH FLOOR
 WASHINGTON, DC 20005



FORMALITIES LETTER



OC00000005994237

Date Mailed: 04/23/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

06/21/2001 ETULUI 00000007 09813919

FILED UNDER 37 CFR 1.53(b)

01 FC:101	710.00 OP
02 FC:103	144.00 OP
03 FC:104	270.00 OP
04 FC:105	130.00 OP

Filing Date Granted

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

- The statutory basic filing fee is missing.
Applicant must submit \$ 710 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$414.
 - \$144 for 8 total claims over 20.
 - \$270 for multiple dependent claim surcharge.
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 1254.**
- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216

- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL FIGG ERNST & MANBECK, P.C.
1425 K STREET, N.W., SUITE 800
WASHINGTON, DC 20005

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Phillip G. Rorex :
Application No. 09/813,965 : ON PETITION
Filed: March 22, 2001 :
Attorney Docket No. 2700-101 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 21, 2004 which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on September 21, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed March 1, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 22, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$455 extension of time submitted with the petition on April 18, 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 2654.


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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : May 31, 2005
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

Applicant(s) : Tetsuya Matsuyama
Application No. : 09/813,970
Filed : March 22, 2001

The above-identified application has been assigned Patent No. 6,904,287 and an issue date of June 7, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 7, 2005:

"All reference to Patent No. 6,904,287 to Tetsuya Matsuyama of Japan for INFORMATION RECEIVING APPARATUS AND INFORMATION PROVIDING APPARATUS THAT COMMUNICATES INFORMATION CORRESPONDING TO LOCATION OF THE INFORMATION RECEIVING APPARATUS appearing in the Gazette of June 7, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, 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
Tamara Greene, ST-8C13



**BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747**

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Tetsuya Matsuyama :
Application No. 09/813,970 :
Filed: March 22, 2001 :
Attorney Docket No. 0033-0703P :

ON PETITION

This is a decision on the petition, filed May 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 April 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2684 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).

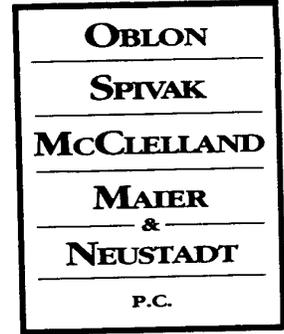


COPY OF PAPERS
ORIGINALLY FILED

PTO COVER LETTER

DOCKET NO.: 205057US0 SRD

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231



Re: Serial No.: 09/813,990
Applicant(s): Minako HIJIKATA, et al.
Filing Date: MARCH 22, 2001
For: GENETIC POLYMORPHISM OF MXA PROTEIN
AND USE THEREOF
Attn.: BOX SEQUENCE

ATTORNEYS AT LAW
NORMAN F. OBLON
(703) 413-3000
NOBLON@OBLON.COM
VINCENT K. SHIER, PH.D.
(703) 413-3000
VSHIER@OBLON.COM

SIR:

Attached hereto for filing are the following papers:

1. Notice of Incomplete Reply (Return Copy)
2. Statement
3. Copy of Sequence Listing, filed June 12, 2001 (Paper Copy - 8 pp.)
4. 3.5" Disk - CRF Sequence Listing

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. §1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. §1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618

Vincent K. Shier, Ph.D.
Registration No. P-50,552

Tel.: 703-413-3000
Fax: 703-413-2220
NFO:VKS:ksh
I:\atty\VKS\205057US-PTO Cvr Ltr.wpd



22850



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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/813,990	03/22/2001	Minako Hijikata	205057US0SRD

CONFIRMATION NO. 2667

22850
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

FORMALITIES LETTER



OC00000007279022

Date Mailed: 01/08/2002

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 06/12/2001 to the Notice to File Missing Parts (Notice) mailed 04/26/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.

Alvin J. [unclear]
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



HA

Handwritten notes: Sector #37

Patent Attorney's Docket No. 027027-006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Yasushi ARAKI Application No.: 09/813,997 Filed: March 22, 2001 For: ORGANIC LIGHT-EMITTING DEVICE Group Art Unit: Not Assigned Examiner: Not Assigned

TRANSMITTAL LETTER FOR MISSING PARTS OF APPLICATION

BOX: MISSING PART Assistant Commissioner for Patents Washington, D.C. 20231

Sir:

In complete response to the Notice to File Missing Parts of Application Under 37 C.F.R. § 1.53(e) dated May 29, 2001, enclosed please find:

- [X] a Combined Declaration and Power of Attorney signed by the inventor(s) and the surcharge of [] \$65.00 (205) [X] \$130.00 (105) as set forth in 37 C.F.R. § 1.16(e); [] Note that the inventor(s) identified on the currently filed Combined Declaration and Power of Attorney are different than listed on the application filing papers. [] a Request for Refund; [] a Petition for Extension of Time; [] a verified English translation of the Application, and the \$130.00 (139) fee as set forth in 37 C.F.R. § 1.17(k); [X] an Assignment document and a separate check for the Assignment recordation fee; [] drawings for publication; [X] other Information Disclosure Statement; Request for Corrected Filing Receipt; [X] a check in the amount of \$ 130.00 for the fee due for missing parts; and

charge \$ _____ to Deposit Account No. 02-4800 for the fee due for missing parts.

Small entity status is hereby claimed.

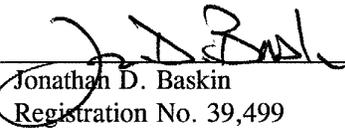
The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

By: _____


Jonathan D. Baskin
Registration No. 39,499

Date: July 20, 2001

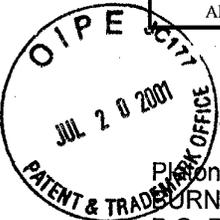
#3



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
09/813,997	03/22/2001	Yasushi Araki	027027-006



Patron N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

CONFIRMATION NO. 2675

FORMALITIES LETTER



OC00000006122035

Date Mailed: 05/29/2001

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 unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

07/24/2001 BARRAHAI 00000000 09813997

01 FD:100 130.00 BP



Paper No. 12

Owens Corning
2790 Columbus Road
Granville, OH 43023

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Liang Chen, et. al.
Application No. 09/814,034
Filed: March 21, 2001
Attorney Docket No. 25061A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 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 above-identified application became abandoned after midnight July 22, 2003.

In response to the final Office action, petitioner submitted with the instant petition \$1,330 for the petition to revive fee, a Request for Continued Examination (RCE), \$770 for the filing of the Request for Continued Examination and an amendment. The fees listed above have been charged to petitioner's deposit account, as authorized in the instant petition.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 1700 for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



RECEIVED
JAN 13 2004

#9
DA [signature]

OFFICE OF PETITIONS
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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 25061A
First named inventor: Chen Confirmation No. : 3539	
Application No.: 09/814,034 Group Art Unit: 1713	
Filed: March 21, 2001 Examiner: D. Wilson	
Title: Low odor insulation binder from phosphite terminated polyacrylic acid	
Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231	
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.	
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.	
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION	
NOTE: A grantable petition requires the following items: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and (4) Statement that the entire delay was unintentional.	
1. Petition fee <input type="checkbox"/> Small entity-fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.	
<input checked="" type="checkbox"/> Other than small entity - fee \$ <u>1330.00</u> (37 CFR 1.17(m))	
2. Reply and/or fee	
A. The reply and/or fee to the above-noted Office action in the form of <u>Preliminary Amendment</u> (identify type of reply): <input type="checkbox"/> has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith.	
B. The issue fee of \$ _____: <input type="checkbox"/> has been paid previously on _____ <input type="checkbox"/> is enclosed herewith.	

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, 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.

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

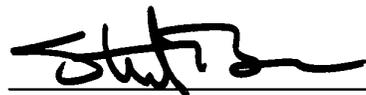
3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

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.

2 Dec 2003
Date


Signature

Telephone
Number: (740) 321-7162

Stephen W. Barns
Typed or printed name
2790 Columbus Road, Bldg. 11
Address
Granville, Ohio 43023-1200

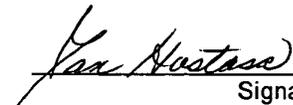
- Enclosures: Fee Payment
- Reply
 - Terminal Disclaimer Form
 - Additional sheets containing statements establishing unintentional delay
 - Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, ~~Box DAC, Washington, D.C. 20231~~ MAIL STOP PETITION, P.O. Box 1450, ALEXANDRIA, VA 22313-1450
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

1/7/04
Date


Signature

Jan Hostasa
Type or printed name of person signing certificate



PTO/SB/17 (09-00)
 Approved for use through 10/31/2002. OMB 0651-0032
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

Complete if Known	
Application Number	09/814,034
Filing Date	March 21, 2001
First Named Inventor	Chen
Examiner Name	D. Wilson
Group Art Unit	1713
Attorney Docket No.	25061A

RECEIVED
JAN 13 2004
OFFICE OF PETITIONS

TOTAL AMOUNT OF PAYMENT (\$) 1,330.00

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 50-0568

Deposit Account Name: Owens-Corning Fiberglas Technology, Inc.

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

Applicant claims small entity status. See 37 CFR 1.27

2. Payment Enclosed:
 Check Credit card Money Order Other

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	0.00
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	0.00
139 130	139 130	Non-English specification	0.00
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	0.00
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	0.00
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	0.00
115 110	215 55	Extension for reply within first month	0.00
116 390	216 195	Extension for reply within second month	0.00
117 890	217 445	Extension for reply within third month	0.00
118 1,390	218 695	Extension for reply within fourth month	0.00
128 1,890	228 945	Extension for reply within fifth month	0.00
119 310	219 155	Notice of Appeal	0.00
120 310	220 155	Filing a brief in support of an appeal	0.00
121 270	221 135	Request for oral hearing	0.00
138 1,510	138 1,510	Petition to institute a public use proceeding	0.00
140 110	240 55	Petition to revive - unavoidable	0.00
141 1,240	241 620	Petition to revive - unintentional	1,330.00
142 1,240	242 620	Utility issue fee (or reissue)	0.00
143 440	243 220	Design issue fee	0.00
144 600	244 300	Plant issue fee	0.00
122 130	122 130	Petitions to the Commissioner	0.00
123 50	123 50	Petitions related to provisional applications	0.00
126 240	126 240	Submission of Information Disclosure Stmt	0.00
581 40	581 40	Recording each patent assignment per property (times number of properties)	0.00
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	0.00
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	0.00
179 710	279 355	Request for Continued Examination (RCE)	0.00
169 900	169 900	Request for expedited examination of a design application	0.00
Other fee (specify):			0.00
Subtotal (3)			(\$) 1,330.00

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	
106 320	206 160	Design filing fee	
107 490	207 245	Plant filing fee	
108 710	208 355	Reissue filing fee	
114 150	214 75	Provisional filing fee	
Subtotal (1)			(\$)

2. EXTRA CLAIM FEES

Extra Claims Fee from below Fee Paid

Total Claims: -20** = X =

Independent Claims: -3** = X =

Multiple Dependent: =

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
103 18	203 9	Claims in excess of 20	
102 80	202 40	Independent claims in excess of 3	
104 270	204 135	Multiple dependent claim, if not paid	
109 80	209 40	** Reissue independent claims over original patent	
110 18	210 9	** Reissue claims in excess of 20 and over original patent	
Subtotal (2)			(\$)

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

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Stephen W. Barns	Registration No. (Attorney/Agent)	38,037
Signature		Telephone	740/321-7162
		Date	2 DEC 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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



Paper No. 6

MAIL

FEB 20 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

Robert S. Babayi
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of:)	
Ami-Salehi, Bahman)	
Application No. 09/814,036)	
Filed March 22, 2001)	
For NETWORK SERVICE PROVIDER	)	DECISION ON REQUEST FOR
GATEWAY THAT PROVIDES	)	WITHDRAWAL AS ATTORNEY
VALUE ADDED SERVICES)	

This is a decision on the Request To Withdraw from Representation filed February 3, 2004.

A ntable 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 the 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 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 applicant 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**.

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

James R. Matthews
7M Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750



UNITED STATES PATENT AND TRADEMARK OFFICE

#17

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

JUL 21 2005

MICHAEL BORGES
19049 Janisse Lane
Lake Elsinore, CA 92530-6212

TECHNOLOGY CENTER 3600

In re Application of
Michael Borges
Application No. 09/814,109
Filed: June 29, 2001
For: FLEXIBLE REFLECTIVE SKYLIGHT TUBES

: **DECISION ON PETITION**
: **TO WITHDRAW THE**
: **HOLDING OF ABANDONMENT**
:

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on ~~December 21, 2004.~~

November 23, 05

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

- Postcard receipt being dated _____.
- USPTO return facsimile receipt dated _____.
- Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).
- Hand Delivery Receipt of the specific documents submitted, dated _____.
- Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.
- Express Mail Receipt under 37 C.F.R. 1.10 dated _____.
- Originally sent response, filed November 14, 2003.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/js: 5/24/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600



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

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STERNE, KESSLER,
GOLDSTEIN & FOX PLLC
JMC 4/13
THN

Paper No. 21

#17
Pat
Decision

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APR 08 2004

OFFICE OF PETITIONS

In re Application of
Hogenkamp et al.
Application No. 09/814,123
Filed: March 22, 2001
Attorney Docket No.
1861.1270001/JMC/THN

THN
4/12/04
: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: FOR PATENT TERM ADJUSTMENT
:

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705," filed June 12, 2003. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seventy-eight (78) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-nine (79) days, not 78 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 13, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 12, 2003, applicants timely submitted the instant request for reconsideration of the patent term adjustment. At the time of the mailing of the notice of allowance, there were no grounds for adjustment of the patent term. However, any adjustment was subject to a reduction of one hundred forty-seven days for applicants' late response filed May 9, 2002, to the non-final Office action mailed September 13, 2001. Applicants dispute this reduction, asserting that the response was timely filed on December 13, 2001.

The response has been shown to have been filed on December 13, 2001, not May 9, 2002. In compliance with § 1.704(b), the response was timely filed within three months of the mailing of the non-final Office action mailed September 13, 2001. See 1.704(b). Accordingly, any patent term adjustment should not be subject to a period of reduction of 147 days.

Palm records indicate that the Issue Fee payment was also received in the Office on June 12, 2003.

Furthermore, given that the response was filed on December 13, 2001, the Office failed to take action within four months. A restriction requirement was not mailed in response until July 1, 2002. Accordingly, pursuant to § 1.703(a)(2), the application is entitled to a period of adjustment of 79 days, the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, April 14, 2002 and ending on the date of mailing of an action under 35 U.S.C. 132, July 1, 2002.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is seventy-nine (79) days.

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

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

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

Karin Ferriter

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

Enclosure: Copy of Revised PAIR Screen

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)
6,775,661	2004-08-10	09/814,139	2001-03-21	10984-0534001

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 |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/Paul Pysher/	Date (YYYY-MM-DD)	2009-01-14
Name	Paul A. Pysher	Registration Number	40780

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

Privacy Act Statement

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

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

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



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In re Patent No. 6775661 :
Issue Date: August 10,2004 :
Application No. 09814139 :DECISION GRANTING PETITION
Filed: March 21,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 10984-534001-P260 :

This is a decision on the electronic petition, filed January 14,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 14,2009 . 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

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/S14,152	03/21/2001	Wilhelm Feilmair	A34136-PCT-USA-A - 071986	2471
21003	7590	02/14/2005	EXAMINER TENTONI, LEO B	
BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ART UNIT 1732	PAPER NUMBER

DATE MAILED: 02/14/2005

13

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. FEILMAIR ET AL.
Issue Date: November 11, 2003
Appl. No.: 09/814,152
Filed: March 21, 2001
For: MICHAEL COLAIANNI

:
:
: **DECISION DISMISSING**
: **PETITION**
: *37 CFR 1.324*
:
:
:
:
:

This is a decision on the petition filed November 12, 2004 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" 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 "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (3). Specifically, 37 CFR §3.73(b) contains specific requirements for establishing ownership which have not been met. Section 3.73(b)(1) requires that ownership be established by either (1) documentary evidence of a chain of title from the original owner to the assignee (e.g. a copy of the executed assignment), or (2) a statement specifying where documentary evidence of the chain of title from the original owner to the assignee is recorded in the assignment records of the PTO (i.e. reel and frame number). Applicant has merely provided a statement that they are the assignee with neither documentary evidence, nor a statement of the reel and frame number. The examiner suggests that the applicant use the "Statement Under 3.73(b)" form found in MPEP §324 to correct this problem. Because this section of the rules has not been satisfied, the petition is hereby dismissed.

Michael Colaianni
Supervisory Patent Examiner
Art Unit 1732
Technology Center 1700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/6/08

Paper No.: _____

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction on Patent No.: 6645409

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Thank You For Your Assistance

Lamonte M. Newsome

Certificates of Correction Branch

Tel. No. 703-305-8309

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

SPE

Art Unit



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MAR 22 2007

Technology Center 2100

BANNER & WITCOFF, LTD.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

In re Application of: Morteza KALHOUR)
Application No. 09/814,182) **DECISION ON PETITION TO**
Attorney Docket No. Q63616) **WITHDRAW HOLDING OF**
Filed: March 22, 2001) **ABANDONMENT UNDER 37 CFR**
For: COMMUNICATION METHOD, A) **§1.181**
NETWORK AND A TERMINAL USING)
SAID METHOD)

This is a decision on the petition, filed August 26, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition to withdraw the holding under 37 CFR §1.181. This application was held abandoned for failure to timely respond to the Office action (non-final) mailed August 20, 2004. A Notice of Abandonment was mailed on June 17, 2005. The status requests filed May 11, 2006, January 3, 2007 and February 26, 2007 are hereby acknowledged. The delay in treatment of the instant petition is regretted.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance was not received and a statement from the person who would have handled the Office action had it been received.

According to the MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

- 1) a statement from practitioner that the Office action was not received;
- 2) a statement from practitioner that the file jacket and docket records were searched;
- 3) a copy of the docket record at the address of record; and
- 4) a reference to the docket record in the practitioner's statement.

[Emphasis added]

The petition fails to fully comply with requirements 2 and 3 set forth above. The evidence submitted has not overcome the presumption of receipt.

The statement from practitioner must be a clear statement that the file jacket and docket records were searched. The copy of the docket record at the address of record at the time the non-received Office communication would have been entered had it been received and docketed,

must be attached to and referenced in practitioner's statement. A clear indication should be made that the docket record provided is from *the address of record at the time the action would have been received*. The docket record identified above is also required to be a docket record showing all actions due by the entire firm *at and around the due date for response*, not counting any possible extensions of time. The dates provided in the docket record accompanying the instant petition appear to be Saturday, November 20, 2004 and Sunday, February 20, 2005, neither of which are business days on which the USPTO receives mail. Note, Monday, February 21, 2005 was a federal holiday.

Further, the firm's docket number associated with the docket record provided in the instant petition (i.e. 1124.41778X00) is not consistent with the docket number of the instant application (i.e. Q63616).

In addition, the attorney must also have been at the address of record at the time the action was mailed or have filed a timely Change of Correspondence address.

The petition is **DISMISSED**.

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (571) 272-3595.



Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security



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MAY 15 2007

TECHNOLOGY CENTER 2100

BANNER & WITCOFF, LTD.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

In re Application of: Morteza KALHOUR)
Application No. 09/814,182) **DECISION ON PETITION TO**
Attorney Docket No. Q63616) **WITHDRAW HOLDING OF**
Filed: March 22, 2001) **ABANDONMENT UNDER 37 CFR**
For: COMMUNICATION METHOD, A) **§1.181**
NETWORK AND A TERMINAL USING)
SAID METHOD)

This is a decision on the renewed petition, filed May 10, 2007, requesting the Withdrawal of the holding of Abandonment of the above-identified application, under 37 CFR §1.181. This application was held abandoned for failure to timely respond to the Office action (non-final) mailed August 20, 2004. A Notice of Abandonment was mailed on June 17, 2005. The original petition, requesting the Withdrawal of the holding of Abandonment, filed August 26, 2005, was dismissed in a decision mailed on March 22, 2007.

According to the MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

- 1) a statement from practitioner that the Office action was not received;
- 2) a statement from practitioner that the file jacket and docket records were searched;
- 3) a copy of the docket record at the address of record; *and*
- 4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Office action was not received and that a search of the file jacket and document records has been performed. In addition, Petitioner provides a copy of the docket record at the address of record and makes reference to the docket record provided in the instant petition.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to restore the instant application to pending status, before **REDATING** and **REMAILING** the non-final Office action (originally mailed August 20, 2004) to Applicant.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 15

Armstrong Kratz Quintos
Hanson & Brooks, LLP
1725 K. Street, N.W.
Suite 1000
Washington, DC 20006

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DEC 18 2003

OFFICE OF PETITIONS

In re Application of :
Yamamoto et al. :
Application No. 09/814,183 : **ON PETITION**
Filed: March 22, 2001 :
Attorney Docket No. 010416 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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 April 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight on July 2, 2003.

In view of the Notice of Improper RCE mailed October 31, 2003, the \$770 RCE fee submitted October 2, 2003, will be credited to deposit account no. 01-2340.

The application file is being forwarded to Technology Center AU 3677 for further processing.

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

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



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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

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OFFICE OF PETITIONS

Douglas J. McEvoy
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham MI 48009

In re Application of :
Jim Spelman :
Application No. 09/814,210 :
Filed: March 21, 2001 : DECISION ON PETITION
Attorney Docket No. SJM- : UNDER 37 C.F.R. § 1.137(B)
10002/15 :
Title: HAND-HELD PLACARD :
DISPLAY INCORPORATING A :
PLURALITY OF INDIVIDUAL :
MESSAGES MOUNTED IN A CIRCULAR :
BINDING FASHION :

This is a decision on the petition filed June 4, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 3, 2003, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 4, 2004. A notice of abandonment was mailed on April 12, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 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 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, a notice of appeal along with the associated fee, an appeal brief along with the associated fee, a terminal disclaimer along with the associated fee, and the proper statement of unintentional delay.

Petitioner has met the first three requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required. As such, the terminal disclaimer has not been entered, and the fee that is associated with the filing of the same will be credited to Petitioner's Deposit Account in due course.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was concurrently submitted with this petition can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - the Office of Petitions cannot effectuate a change of status.

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 regarding this decision should be directed to the undersigned at (571) 272-3225¹. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Douglas J. McEvoy
Gifford, Krass, Sprinkle, Anderson & Citowski, P.C.
2701 Troy Center Drive, Suite 330
Post Office Box 7021
Troy, Michigan 48007-7021

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

PET DEC

BEST AVAILABLE COPY

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.
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	Application Number	09/814,211
	Filing Date	03-22-2001
	First Named Inventor	Fetzer
	Art Unit	
	Examiner Name	<i>J. J. [unclear]</i>
	Attorney Docket Number	015741-00080

**To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Please withdraw me as attorney or agent for the above identified patent application, and

all the attorneys/agents of record.

the attorneys/agents (with registration numbers) listed on the attached paper(s), or

the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has rendered the representation unreasonably difficult
Client has failed substantially to perform an obligation related to the lawyer's services

Approved
Stone
FEB 18 2005
Jacqueline M. Stone, Director
Technology Center 1700

CORRESPONDENCE ADDRESS

1. The correspondence address is NOT affected by this withdrawal.

2. Change the correspondence address and direct all future correspondence to:

The address associated with Customer Number:

OR

<input checked="" type="checkbox"/> Firm or Individual Name	Kelly Fetzer		
Address	2010 Deer Springs Drive		
City	Houston	State	TX
Country	US	Zip	77339
Telephone		Fax	
Signature	<i>John Wilson Jones</i>		
Name	John Wilson Jones	Registration No.	31,380
Date	<i>1/13/05</i>	Telephone No.	(713) 228-1142

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

NOV 28 2006

OFFICE OF PETITIONS

In re Application of :
James K. Vanderveen :
Application No. 09/814,227 : **DECISION ON PETITION**
Filed: March 21, 2001 :
Attorney Docket No. 60,426-242(2000P09010US01) :

This is a decision in response to the petition under 37 CFR 1.137(b) filed June 30, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The \$1,500 petition fee submitted with the petition is being refunded to counsel's deposit account.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 21, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 21, 2005. A Notice of Abandonment was mailed May 5, 2006. In response, on June 30, 2006, the present petition was filed, wherein petitioner asserts that the Notice dated December 21, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

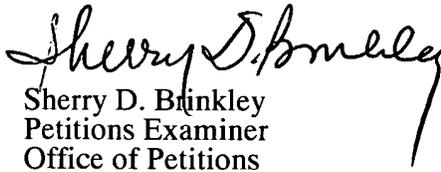
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

Since the requisite issue/publication fee accompanied the petition, the application is being referred to Publishing Division for further processing into a patent.

Telephone inquiries 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



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

COPY MAILED

FEB 26 2007

OFFICE OF PETITIONS

In re Application of :
Miyamoto et al. :
Application No. 09/814,241 :
Filed: 03-21-2001 :
Attorney Docket No. FUJx 18.462 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 19, 2006, to withdraw the holding of abandonment for the above-identified application.

On December 2, 2004, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on December 1, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the final Office action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to 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 non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the final Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the final Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2618 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/20/2010

Applicant : Edmund H. Louie : DECISION ON REQUEST FOR
Patent Number : 7599879 : RECALCULATION of PATENT
Issue Date : 10/06/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/814,243 : OF WYETH AND NOTICE OF INTENT TO
Filed : 03/21/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1785** 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.



Paper No. 9

David F. Martinez
ATSER
1150 Richcrest Drive
Houston, TX 77060

COPY MAILED

MAR 08 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Birkner et al.
Application No. 09/814,250
Filed: March 21, 2001
For: Computerized Laboratory Information
Management System

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 21, 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 December 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 21, 2003. A Notice of Abandonment was mailed on June 27, 2003.

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

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

It is not apparent whether the 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.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the

¹ See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

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



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

cc: Bao Tran
TRAN & ASSOCIATES
6768 Meadow Vista Court
San Jose, CA 95135



Paper No. 14

Medtronic Inc.
710 Medtronic Parkway, NE
MS-LC340
Minneapolis, MN 55432-5604

COPY MAILED

DEC 15 2003

OFFICE OF PETITIONS

In re Application of :
Robert W. Stadler :
Application No. 09/814,251 :
Filed: March 21, 2001 :
Attorney Docket No. P-8777 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed March 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight on March 12, 2003.

The application file is being forwarded to Technology Center 3762, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/814,252	03/21/2001	Nancy D. Hanson	180.00030103

CONFIRMATION NO. 6198

FORMALITIES LETTER



OC000000006066324

 26813
 MUETING, RAASCH & GEBHARDT, P.A.
 P.O. BOX 581415
 MINNEAPOLIS, MN 55401

Date Mailed: 05/11/2001

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:

- A substitute specification in compliance with 37 CFR 1.52 because:
 - Papers contain improper margins. *Each sheet must have a left margin of at least 2.5 cm (1") and top, bottom and right margins of at least 2.0 cm (3/4")*

*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



PATENT
Docket No. 180.0003 0103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HANSON et al.) Group Art Unit: 1655
Serial No.: 09/814,252)
Confirmation No.: 6198) Examiner: Unassigned
Filed: 21 March 2001)
For: PRIMERS FOR USE IN DETECTING BETA-LACTAMASES

RESPONSE TO NOTICE TO FILE
CORRECTED APPLICATION PAPERS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This communication is in response to a Notice to File Corrected Application Papers mailed 11 May 2001.

The Notice states that a substitute specification is required to be filed in compliance with 37 C.F.R. § 1.52 because the application did not contain the proper margins. In consideration thereof, Applicants have reformatted the specification, including the claims, to fall within the margins of:

LEFT = at least 2.5 cm (1");

TOP, BOTTOM, and RIGHT = at least 2.0 (3/4").

No new matter is being submitted, and no amendments have been made to the specification. The contents of the specification are identical to those of the specification as filed, with the one exception that pagination has changed due to margin alteration.

Response to Notice to File Corrected Application Papers

Page 2

Applicant(s): HANSON et al.

Serial No.: 09/814,252

Filed: 21 March 2001

For: PRIMERS FOR USE IN DETECTING BETA-LACTAMASES

Applicants respectfully submit that the above-identified application is now in order for examination, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (612) 305-1217 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4895.

<p>CERTIFICATE UNDER 37 C.F.R. 1.8:</p> <p>The undersigned hereby certifies that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on this <u>10</u> day of JULY, 2001.</p> <p><i>Ann M. Mueting</i> Ann M. Mueting</p>
--

Respectfully submitted,

Nancy D. HANSON et al.,

By their Representatives,
Mueting, Raasch & Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612)305-1220

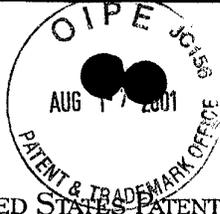
Facsimile: (612)305-1228

Customer Number 26813

Date July 10, 2001

AMM/kjm

By: *Ann M. Mueting*
Ann M. Mueting
Reg. No. 33,977
Direct Dial (612) 305-1217


UNITED STATES PATENT AND TRADEMARK OFFICE

 COMMISSIONER FOR PATENTS
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 WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/814,257	03/21/2001	1655	515	180.00030102		18	7

26813
 MUETING, RAASCH & GEBHARDT, P.A
 P.O. BOX 581415
 MINNEAPOLIS, MN 55401

egm CONFIRMATION NO. 6204
 FILING RECEIPT



OC00000006193846

Date Mailed: 06/18/2001

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

Applicant(s)

Nancy D. Hanson, Gretna, NE;
 Christine C. Sanders, Englewood, FL;
 Anton F. Ehrhardt, Omaha, NE;

Assignment For Published Patent Application

Creighton University;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A DIV OF 09/407,818 09/28/1999 PAT 6,242,223
 WHICH CLAIMS BENEFIT OF 60/102,181 09/28/1998
 AND CLAIMS BENEFIT OF 60/121,765 02/26/1999

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

RECEIVED
 AUG 20 2001
 TECH CENTER 1600/2900

Title

Primers for use in detecting beta-lactamases

Preliminary Class

435

Data entry by : YIN, NUNU

Team : OIPE

Date: 06/18/2001



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

GRANTED

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

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

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

NOT GRANTED

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

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket Number	Anticipated Classification		Prior Application	
	Class	Subclass	Examiner	Art Unit
180.00030102			Unknown	Unknown

**REQUEST FOR FILING A DIVISIONAL PATENT APPLICATION
UNDER RULE 1.53(b)**

Assistant Commissioner for Patents
Attn: Box PATENT APPLICATION
Washington, D.C. 20231

Sir:

This is a request for filing a divisional application under 37 CFR §1.53(b) of Serial No. 09/407,818, filed on September 28, 1999, entitled PRIMERS FOR USE IN DETECTING BETA-LACTAMASES by the following inventor(s) (name, address, and citizenship):

1. Nancy D. Hanson
413 Brentwood Drive
Grentna, NE 68028
Citizenship: U.S.A.
2. Christine C. Sanders
1901 Pennsylvania Avenue
Englewood, FL 34224
Citizenship: U.S.A.
3. Anton F. Ehrhardt
4262 North 142nd Avenue
Omaha, NE 68164
Citizenship: U.S.A.

1. Enclosed is a copy of the specification (including claims, abstract, and drawings) as filed in the prior application.
2. Enclosed is a new specification (including claims and abstract). The entire disclosure of the prior application is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference.
3. Enclosed is a copy of the Declaration and Power of Attorney filed in the prior application.
4. Enclosed is a newly executed Declaration and Power of Attorney.
5. Enclosed are [in] formal drawings (___ sheets).
6. Cancel in this application claims 1-11, 18-38, and 50 before calculating the filing fee. (At least

one independent claim must be retained for filing purposes.)

7. A preliminary amendment and an Appendix A (Claim Amendments with Notations To Indicate Changes Made) are enclosed.
8. The filing fee is calculated below:

CLAIMS AS FILED			
NUMBER FILED	NUMBER EXTRA	RATE	BASIC FEE \$710/\$355
Total Claims 18-20 =	0	\$18/\$9	\$0
Independent Claims 7-3 =	4	\$80/\$40	\$160
MULTIPLE DEPENDENT CLAIM PRESENTED		\$270/\$135	\$0
FILING FEE:			\$515

9. A check in the amount of \$ 515.00 is attached.
10. The Commissioner is hereby authorized to charge any additional fees as set forth in 37 CFR §1.16 to 1.18 which may be required by this paper or credit any overpayment to Account No. 13-4895.
11. This application is being filed by less than all of the inventors named in the prior application. Please delete the names of the following inventor(s) who are not inventors of the invention claimed in the present application:
12. Amend the specification by inserting the following section after the "Title" heading at page 1:
--Statement of Related Applications
This application is a divisional of U.S. Patent Application Serial No. 09/407,818, filed September 28, 1999, entitled "Primers for Use in Detecting Beta-Lactamases," which claims the benefit of U.S. Patent Application Serial No. 60/102,181 filed September 28, 1998, entitled "Primers for Use in Detecting Beta-Lactamases," and U.S. Patent Application Serial No. 60/121,765 filed February 26, 1999, also entitled "Primers for Use in Detecting Beta-Lactamases." All three applications are incorporated herein by reference.--
13. Priority of foreign application Serial No. ____, filed on ____ in (country) ____ is claimed under 35 U.S.C. §119.
14. The prior application is assigned of record to Creighton University.

15. X The Power of Attorney in the prior application is to:

Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Customer Number 26813

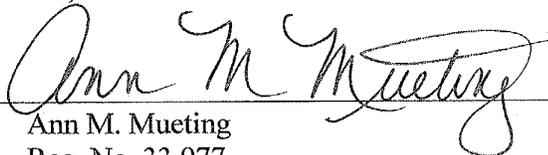
Address all future communications to:

MUETING, RAASCH & GEBHARDT, P.A.
P.O. Box 581415
Minneapolis, Minnesota 55458-1415
Customer Number 26813

Attn: Ann M. Mueting
(Telephone: 612-305-1220)
(Facsimile: 612-305-1228)

Date:

March 21, 2001



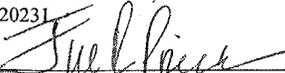
Ann M. Mueting
Reg. No. 33,977
Direct Dial (612)305-1217

"Express Mail" mailing label number EL776902358US

Date of Deposit March 21, 2001

I hereby certify that this paper and/or fee is/are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Attn: Box PATENT APPLICATION, Washington, D. C. 20231

Name:


JILL R. PRICE

PATENT
Docket No. 180.0003 0103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HANSON et al.	)	Group Art Unit: 1655
)	
Serial No.: 09/814,252	)	Examiner: F. Lu
Confirm. No.: 6198)	
)	
Filed: 21 March 2001)	
)	
For: <u>PRIMERS FOR USE IN DETECTING BETA-LACTAMASES</u>		

9/25/01
official
will be
please refer

FACSIMILE TRANSMISSION TO THE PTO

Assistant Commissioner for Patents
Attn: Examiner F. LU
Washington, D.C. 20231

FAX NUMBER: 703/308-8724
Total Pages (including cover page): 3
Time: 11:00 am (central)
(Transmission must be complete by midnight eastern time.)

The following papers are being transmitted to the Patent and Trademark Office by facsimile transmission: Response to Notice of Non-Compliant Amendment (37 CFR 1.121) (1 pg)

Mueeting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
(612)305-1220

25 September 2001
Date

By: *Anna M Mueeting*
Ann M. Mueeting
Reg. No. 33,977
Direct Dial: 612/305-1217

I hereby certify that the papers listed above are being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

25 September 2001
Date

Signature: *Kelly J McNealty*
Name: *Kelly J McNealty*

If you do not receive all pages, please contact us at (612)305-1220 (ph) or (612)305-1228 (fax).

#10
B. Webb
9/28/01

PATENT
Docket No. 180.0003 0103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HANSON et al.	)	Group Art Unit: 1655
)	
Serial No.: 09/814,252	)	Examiner: F. Lu
Confirm. No.: 6198)	
)	
Filed: 21 March 2001)	
For: <u>PRIMERS FOR USE IN DETECTING BETA-LACTAMASES</u>		

**RESPONSE TO NOTICE OF
NON-COMPLIANT AMENDMENT (37 CFR 1.121)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Pursuant to the telephone conversation held Monday, 24 September 2001 between Examiner Frank Lu and Kelly McNulty of *Mueting, Raasch & Gebhardt*, Applicants are not required to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed 08 September 2001.

According to Examiner Lu, the Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed by mistake, as the Preliminary Amendment Applicants submitted on 21 March 2001 was in full compliance with the requirements of the U.S. Patent Office.

In consideration thereof, Applicants respectfully request that the Preliminary Amendment filed on 21 March 2001 be entered in its entirety prior to examination and consideration of the above-identified divisional application.

Response to Notice of Non-compliant Amendment (37 CFR 1.121)

Page 2 of 2

HANSON et al.

Serial No.: 09/814,252

Confirm. No.: 6198

Filed: 21 March 2001

For: PRIMERS FOR USE IN DETECTING BETA-LACTAMASES

If the Examiner wishes to discuss any issues concerning this communication by telephone, please contact the below-signed attorney at (612)305-1217.

Respectfully submitted for:

HANSON et al.,

By:
Mueeting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
(612)305-1220

Sept 25, 2001
Date

AMM/kjm

By: Ann M. Mueeting
Ann M. Mueeting
Reg. No. 33,977
Direct Dial (612)305-1217

CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on this 25th day of SEPTEMBER, 2001, at 11:00 am (Central Time).

By: Kelly J. McNeely
Printed Name: Kelly J. McNeely



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

KM:9-01

Paper No: 17

WELLS, ST. JOHN, ROBERTS, GREGORY & MATKIN
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201-3828

COPY MAILED

In re Application of :
Moore et al. :
Application No. 09/814,260 : ON PETITION
Filed: 21 March, 2001 :
Attorney Docket No. MI22-1663 :

OCT 22 2001

OFFICE OF PETITIONS

This is a decision on the petition filed herein on 6 August, 2001, under 37 C.F.R. §1.53(e), to establish receipt of a Figure 29 on 21 March, 2001.

The petition is **GRANTED**.

The record indicates that:

- the application was filed on 21 March, 2001;
- a Notice of Omitted Items was mailed on 6 June, 2001, stating that Figure 29, as described in the specification, was missing;
- a copy of figure 29 was filed on 6 August, 2001, with the instant petition.

The petition is accompanied by Petitioner's postcard receipt which acknowledges receipt of 20 sheets of drawings on 21 March, 2001. Petitioner has shown that the missing figure, on the 20th of 20 submitted drawings sheets, was deposited with the application on 21 March, 2001.

The petition fee of \$130.00 will be refunded to Deposit Account No. 23-0925.

This application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 21 March, 2001, using the copy of Figure 29 supplied with the petition and for an indication in USPTO records that 20 sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to Kathy Matecki at (703) 305-9282.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 26 2004

Paper No. 17

In re Application of
Scott E. Monroe *et al*
Application No. 09/814,260
Filed: March 21, 2001
Attorney Docket No. MI22-1663

:
: DECISION ON PETITION
:
:

The petition under 37 CFR 1.137(a) filed on February 20, 2004 has been referred to the undersigned for consideration as a petition under 37 CFR 1.181 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated July 10, 2003. No fee is required for a petition under 37 CFR 1.181.

The petition is granted.

Petitioners allege that they in fact filed a timely and proper reply to the Office action in question. Petitioners have supported this allegation by furnishing a copy of the reply, a copy of an Information Disclosure Statement filed with the reply, and a copy of a request for a one month extension of time that included authorization to charge the required extension fee to counsel's deposit account. Petitioners have also included a copy of the transmittal letter which lists these items and includes a 37 CFR 1.8(a) certificate of transmission dated November 10, 2003, as well as a copy of an auto-reply receipt for these items showing that they were in fact received in the Office on November 10, 2003. This evidence makes it abundantly clear that the application was not in fact abandoned. See, for example, 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the Head Supervisory Applications Examiner to refund the \$110.00 petition fee tendered with this petition to Deposit Account No. 23-0925, and to charge the \$110.00 fee for a one month extension of time which was not charged when the above mentioned request for extension of time was received. It is also noted that the fee for the IDS has apparently been received. The application will thereafter be forwarded to the examiner for action on the reply filed on November 10, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Wells St. John P.S.
601 W. First Avenue
Suite 1300
Spokane, WA 99201

Trans. Ref: 04/30/2004 VHART1 0015292800
02/02/2004 Name/Number:09814260
FC: 9204 \$110.00 CR

Adjustment date: 04/30/2004 VHART1
04/01/2004 RHDNDAF1 00000010 09814260
01 FC:1452 -110.00 OP



MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

APR 10 2007

In re Application of	:	OFFICE OF PETITIONS
Jonathan M. Rothberg et al.	:	
Application No. 09/814,338	:	DECISION GRANTING PETITION
Filed: March 21, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21465-501 CIP2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 2, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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.

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)
6484905	2002-11-26	09814361	2001-03-21	

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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

Signature /William Swackhamer/

Date (YYYY-MM-DD) 2007-10-18

Name William Swackhamer

Patentee 2

Signature /Patricia Swackhamer/

Date (YYYY-MM-DD) 2007-10-18

Name Patricia Swackhamer

Additional Patentees may be generated within this form by selecting the Add Button

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. 6484905 :
Issue Date: November 26,2002 :
Application No. 09814361 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 21,2001 :
Attorney Docket No. SWACK-00100 :

This is a decision on the electronic petition, filed October 18,2007 ,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 October 18,2007 . 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.



FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

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DEC 27 2004

OFFICE OF PETITIONS

In re Application of :
Masayuki Hattori et al :
Application No. 09/814,379 :
Filed: March 21, 2001 :
Attorney Docket No. 450100-03073 :

ON PETITION

This is a decision on the petition, filed December 17, 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 15, 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 2653 will consider the request for continued examination under 37 CFR 1.114.


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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

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

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JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Weiss et al. :
Application No. 09/814,399 :
Filed: March 22, 2001 :
Attorney Docket No. 9124.129US01 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed March 27, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 28, 2003. A Notice of Abandonment was mailed on December 17, 2003.

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

The file is now being forwarded to Technology Center 2100 for further examination on the merits.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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01W Feb-06

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

COPY MAILED

MAR 01 2006

OFFICE OF PETITIONS

In re Application of :
Weiss et al. :
Application No. 09/814,399 : DECISION ON PETITION
Filed: 22 March, 2001 :
Atty Docket No. 09124.0129US01 :

This is a decision on the petition filed on 26 January, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 November, 2004, for failure to timely reply to the final Office action mailed on 13 August, 2004, which set a three (3) month shortened statutory

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 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 37 CFR 1.137(c).

period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 August, 2005.

Petitioners have filed an amendment after final rejection as the required reply. As the examiner has determined that the amendment *prima facie* places the application in condition for allowance, the petition may be favorably considered.

This application is being referred to Technology Center Art Unit 2163 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



KIMBERLY-CLARK WORLDWIDE, INC.
LEGAL DEPARTMENT
401 NORTH LAKE STREET
NEENAH, WI 54956

COPY MAILED

DEC 08 2004

OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Application No. 09/814,402 : ON PETITION
Filed: March 22, 2001 :
Attorney Docket No. 11710-0210 :
(44043-228530) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 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)."

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 February 25, 2003. The proposed reply required for consideration of a petition to revive must be:

- (A) a Notice of Appeal and appeal fee;
- (B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
- (C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or
- (D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Accordingly, this application became abandoned on May 26, 2003. A Notice of Abandonment was mailed on October 21, 2003 and supplemented on December 12, 2003.

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

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2), above.

The petition fee has not been submitted. The fee transmittal, submitted April 20, 2004, authorizes the charging of only \$130.00 to deposit account 11-0875, however, the petition set forth in 37 CFR 1.17(m) is currently \$1370.00. Furthermore, permission to charge additional fees or underpayment of fees was not authorized in the fee transmittal. A balance of \$1240 remains. As such, the petition can not be addressed on the merits at this time.

Accordingly, the petition must be dismissed.

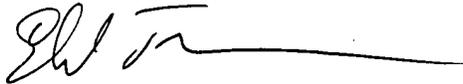
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

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

By hand: Customer Service Window
 2011 South Clark Place
 Crystal Plaza Two (left side entrance of building)
 Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.



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



KIMBERLY-CLARK WORLDWIDE, INC.
LEGAL DEPARTMENT
401 NORTH LAKE STREET
NEENAH, WI 54956

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Application No. 09/814,402 : ON PETITION
Filed: March 22, 2001 :
Attorney Docket No. 11710-0210 :
(44043-228530) :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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 February 25, 2003. Accordingly, this application became abandoned on May 26, 2003. A Notice of Abandonment was mailed on October 21, 2003 and supplemented on December 12, 2003.

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

- (1) the required reply, unless previously filed.
In a nonprovisional application abandoned for failure to prosecute, the required reply may be met

by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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

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 February 25, 2003. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be one of the following:

- a Notice of Appeal and appeal fee;
- an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
- the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or
- the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

The amendment filed April 20, 2004 has been reviewed by the Examiner and it does not place the application in condition for allowance. As such, the required reply has not been submitted and the petition must be dismissed.

A courtesy copy of the PTOL-303 Advisory Action is attached to the instant decision. However, please note, this courtesy copy of the advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection.

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

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571)272-3228.



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

Attachment:
Courtesy Copy of PTOL-303



UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIMBERLY CLARK WORLDWIDE, INC.
LEGAL DEPARTMENT
401 NORTH LAKE STREET
NEENAH, WI 54956

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JUN 09 2005

OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Application No. 09/814,402 :
Filed: March 22, 2001 :
Attorney Docket No. 11710-0210 (44043- :
228530) :

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. 1.137(b), filed June 2, 2005, (Certificate of Mailing date: May 31, 2005), 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 February 25, 2003. Accordingly, this application became abandoned on May 26, 2003. A Notice of Abandonment was mailed on October 21, 2003 and supplemented on December 12, 2003.

The file is being forwarded to Technology Center 3700, for review of the RCE and amendment, filed June 2, 2005, (Certificate of Mailing date: May 31, 2005).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

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



BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

MAY 04 2005

In re Application
Yihua Chang
Application No. 09/814,403
Filed: March 22, 2001
Attorney Docket No. 11302-1190(44040-
256047)

:
:
:
: **OFFICE OF PETITIONS**
: **DECISION ON APPLICATION**
: **FOR PATENT TERM ADJUSTMENT**
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR 1.705(b)," filed December 20, 2004.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Additionally, applicant has not provided a basis for why they believe they are entitled to one hundred and seventy-eight (178) additional days.

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

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

Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704**Period of adjustment pursuant to 37 C.F.R. § 1.704(b)**

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

In the present application, responses to Office Actions were received by the U.S. Patent and Trademark Office after the 3 month date at three separate times – April 21, 2003; November 6, 2003; and June 24, 2004 – as noted on the Patent Term Adjustment History (Exhibit B). The total delay by Applicants under 37 C.F.R. § 1.703(b) was thus **133 days**.

Period of adjustment pursuant to 37 C.F.R. § 1.704(c)

Pursuant to 37 C.F.R. § 1.704(c)(7), when a reply has an omission, the period of adjustment shall be reduced by the number of days, if any, beginning on the date the reply having an omission was filed and ending on the date that the reply correcting the omission was filed.

In the present application, an incomplete response to a restriction requirement was received by the U.S. Patent and Trademark Office on September 30, 2002, and the completed response was received by the U.S. Patent and Trademark Office on November 25, 2002. The total delay by Applicants under 37 C.F.R. § 1.703(c) was thus **56 days**.

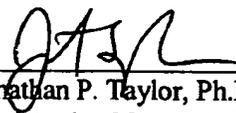
Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be (89+178) days - (133+56) days = 78 days, instead of zero (0) days indicated on the Notice of Allowance attached as Exhibit A.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicants respectfully request the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

12-16-04



Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



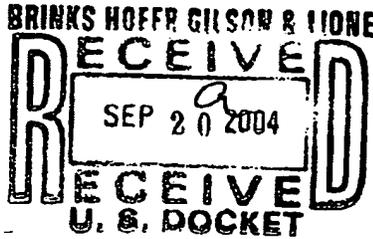
UNITED STATES PATENT AND TRADEMARK OFFICE



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

NOTICE OF ALLOWANCE AND FEE(S) DUE

757 7590 09/16/2004
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610



EXAMINER	
LIPMAN, BERNARD	
ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 09/16/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,403	03/22/2001	Yihua Chang	11302-1190 (44040-256047)	3830

TITLE OF INVENTION: WATER-DISPERSIBLE, CATIONIC POLYMERS, A METHOD OF MAKING SAME AND ITEMS USING SAME

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	12/16/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

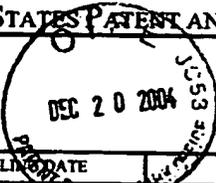
III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NO. 09/814,403	FILING DATE 03/22/2004	FIRST NAMED INVENTOR Yihua Chang	ATTORNEY DOCKET NO. 11302-1190 (44040-256047)	CONFIRMATION NO. 3830
757 7590 09/16/2004		EXAMINER LIPMAN, BERNARD		
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610		ART UNIT 1713		

DATE MAILED: 09/16/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



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



Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
Row 1: 09/814,403, 09/16/2004, Yihua Chang, 11302-1190 (44040-256047), 3830

757 7590 09/16/2004
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER
LIPMAN, BERNARD
ART UNIT PAPER NUMBER

1713

DATE MAILED: 09/16/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (http://www.uspto.gov/main/howtofees.htm).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

- (a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
By a small entity (Sec. 1.27(a))..... \$685.00
By other than a small entity..... \$1,370.00
(b) Issue fee for issuing a design patent:
By a small entity (Sec. 1.27(a))..... \$245.00
By other than a small entity..... \$490.00
(c) Issue fee for issuing a plant patent:
By a small entity (Sec. 1.27(a))..... \$330.00
By other than a small entity..... \$660.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

allowance both indicate a patent term adjustment that was calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 of zero (0) days. A copy of Notice of Allowance for the present application is included herewith as Exhibit A.

Applicants believe that the patent term adjustment should be 78 days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Enclosed is a check in the amount of \$200 for the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925.

The patent term adjustment for the present application was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicants believe that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for the present application as described in detail below. The present application is not subject to a terminal disclaimer.

Period of adjustment pursuant to 37 C.F.R. § 1.703

Period of adjustment pursuant to 37 C.F.R. § 1.703(a)

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after that date that is fourteen months after the date on which the application was filed pursuant to 35 U.S.C. § 111(a), or fulfilled the requirements pursuant to 35 U.S.C. § 371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. § 132 or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first.

The present application was filed on **March 22, 2001**. The 14 month date specified in 37 C.F.R. § 1.703(a) is **May 22, 2002**. According to the PAIR system Patent Term Adjustment History, attached as Exhibit B, the first action on the merits by the U.S. Patent and Trademark Office in the present application was a requirement for restriction mailed on **August 10, 2002**. Applicants are in agreement with the calculation by the U.S. Patent and Trademark Office that the Office's delay under 37 C.F.R. § 1.703(a)(1) was **89 days**.

Period of adjustment pursuant to 37 C.F.R. § 1.703(b)

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a) or fulfilled the requirements pursuant to 35 U.S.C. § 371.

The present application was filed on **March 22, 2001**. The 3 year date specified in 37 C.F.R. § 1.703(b) is **March 22, 2004**. On the date of mailing of the notice of allowance, the present application had exceeded the 3 year date by **178 days**. Applicants expect that additional non-overlapping delay can reasonably be expected prior to a patent issuing for the present application. Applicants therefore request re-computation of the period of adjustment pursuant to 37 C.F.R. § 1.703 upon identification of the date of issue of the patent of the present application to reflect this delay. With this request, Applicants further reserve the right to request reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d) if the term of the issued patent is believed to be extended or adjusted incorrectly.



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Raymond Van Dyke
Jenkins & Gilchrist P.C.
3200 Fountain Place
1445 Ross Avenue
Dallas, TX 75202-2799

MAILED

JUN 05 2005

Technology Center 2100

In re Application of:
Hans HANNU, et al.
Application No. 09/814,406
Filed: March 21, 2001
For: **STATIC INFORMATION KNOWLEDGE
USED WITH BINARY COMPRESSION
METHODS**

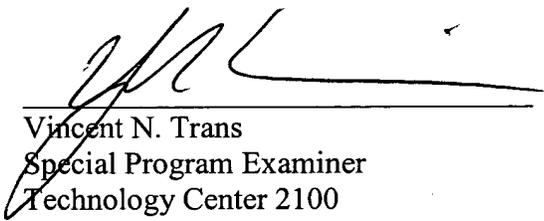
**DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT**

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed April 14, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 15, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Steven Smith, et al. of Ericsson Inc. as the attorney(s) of record of the instant application. The Power of Attorney of April 15, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Steven Smith, et al of Ericsson Inc.

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

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



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



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

**LSI LOGIC CORPORATION
1551 McCARTHY BLVD., MS: D-106
MILPITAS, CA 95035**

COPY MAILED

FEB 25 2002

In re Application of	:	OFFICE OF PETITIONS
Prasad Subbarao et al	:	
Application No. 09/814,417	:	DECISION ON PETITION
Filed: March 21, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 00-007 68513 (6653)	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed by facsimile transmission on February 13, 2002, to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of prior filed provisional Application No. 60/194,073, filed April 3, 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 21, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/194,073, which was filed on April 3, 2000, and for which priority is claimed. A reference to the prior provisional application has been included in an Application Data Sheet (ADS).

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. 60/194,073 is granted as of the date of filing the petition.

A corrected filing receipt which includes the priority claim to provisional Application No. 60/194,073, filed April 3, 2000, accompanies this decision on petition.

As authorized, the \$1,280 fee required by 37 CFR 1.78(a)(6) will be charged to petitioner's Deposit Account No. 12-2252.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2123 for processing the ADS filed February 13, 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. 60/194,073, filed on April 3, 2000.


Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt



Paper No. 22

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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DEC 19 2003

**OFFICE OF PETITIONS
ON PETITION**

In re Application of
Blackett et al
Application No. 09/814,436
Filed: March 22, 2001
Attorney Docket No. 6270/60

:
:
:
:
:

This is a decision on the petition, filed December 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 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 2857 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

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.
09/814,436	03/22/2001	Andrew W. Blackett	6270/60	4572

46260 7590 02/09/2005

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER

ASSOUAD, PATRICK J

ART UNIT PAPER NUMBER

2857

DATE MAILED: 02/09/2005

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

In the absence of such a statement, the petition must be dismissed.



Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO IL 60610



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,436	03/22/2001	Andrew W. Blackett	6270/60	4572

46260 7590 05/19/2005

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER

ASSOUAD, PATRICK J

ART UNIT PAPER NUMBER

2857

DATE MAILED: 05/19/2005

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



Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO IL 60610



Visteon
c/o Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Delin Li :
Application No. 09/814,486 :
Filed: March 20, 2001 :
Attorney Docket No. 10541-2108 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 18, 2004, 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 March 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight June 13, 2002.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account \$1,370 for the petition to revive fee, an amendment, a Power of Attorney with Change of Address, and a Statement under 37 CFR 3.73(b). As authorized, the above fee has been charged to petitioner's deposit account.

The Power of Attorney/Change of Correspondence Address filed October 18, 2004, has been accepted and made of record.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2827, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 7

Prithvi C. Lall
Naval Undersea Warfare Center
Division, Newport
1176 Howell Street, Building 112T
Newport, RI 02841-1708

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JUL 09 2004

OFFICE OF PETITIONS

In re Application of
Anthony A. Ruffa et. al.
Application No. 09/814,487
Filed: March 20, 2001
Attorney Docket No. 80095

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2004, to revive the above-identified application.

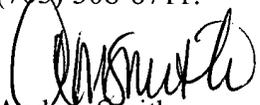
The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 29, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 29, 2001. A notice of abandonment was mailed October 24, 2003.

In response, petitioner submitted with the instant petition 1,330 for the petition to revive fee, an Oath/Declaration, and \$130 surcharge for the late filing of the Oath/Declaration.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.


Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 6

PATRICK M. GRIFFIN
DELPHI TECHNOLOGIES, INC.
Legal Staff, Mail Code: 480-414-420
P.O. Box 5052
Troy MI 48007-5052

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OCT 02 2002

OFFICE OF PETITIONS

In re Application of
Kent, et al.
Application No. 09/814,508
Filed: March 22, 2001
Attorney Docket No. DP-303704

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 6, 2002, which will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) is GRANTED.

The petition under 37 CFR 1.137(b) is MOOT.

This application was held abandoned on March 19, 2001, because it was believed that the no response was received to the Notice of Allowance and Issue Fee Due mailed December 18, 2001, which set a statutory period for reply of three months. Petitioner was advised of the above-cited application's abandonment by a Notice of Abandonment mailed May 9, 2002.

Petitioner maintains that the Notice of Allowance and Issue Fee Due was never received. As proof of the same, petitioner provided a copy of the relevant docketing record and indicated that the review of the applicant's records did not reveal the Notice of Allowance and Issue Fee Due. Based on the facts as stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed; the holding of abandonment is, therefore, withdrawn as of the mailing date of this decision. There is no fee associated with the petition to withdraw the holding of abandonment.

Because the holding of abandonment is withdrawn with mailing of this decision, the petition under 37 CFR 1.137(b) is rendered moot.

The application is being forward to Technology Center 3700 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
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 4

COPY MAILED**JUL 19 2001****OFFICE OF PETITIONS
A/C PATENTS**

IP Administration
Legal Department, 20BN
Hewlett-Packard Company
P.O. Box 10301
Palo Alto, California 94303-0890

In re Application of
Thompson, Santhanam, Ju, and Bala
Application No. 09/814,511
Filed: March 22, 2001
Attorney Docket No. 10961404-1
For: METHOD AND APPARATUS FOR ORDERED
PREDICATE PHI IN STATIC SINGLE ASSIGNMENT
FORM

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:
:
:

This is a decision on the petition under 37 CFR 1.47(a), filed June 5, 2001.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." Failure to respond will result in abandonment of the application. Extensions of time are available and will be governed by 37 CFR 1.136(a).

This above-cited application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed April 30, 2001, which indicated that a signed oath or declaration was missing and also that a surcharge of \$130.00 was due, consequently. The Notice also advised that the filing fees in the amount of \$710.00 had not been remitted. The Notice set forth an extendable period for reply of two months. On June 5, 2001, in response to the Notice, petitioner filed the instant petition, a declaration of relevant facts, a "Combined Declaration for Patent Application and Power of Attorney", and other supporting documentation. Petitioner also remitted the \$130.00 surcharge

A grantable petition under 37 CFR 147(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and,
- (4) a statement of the last known address of the non-signing inventor.

With respect to non-signing inventor Ju, the instant petition lacks item (1).

As to item (1), petitioner has not demonstrated that petitioner made a 'diligent' effort to locate inventor Dz-Ching Ju. Section 409.03(d) of the MPEP requires that a showing of diligence be made in petitioner's efforts to locate a non-signing inventor before a refusal to join application will be assumed. The requisite showing of diligence is not demonstrated by the instant petition. There is no indication that petitioner attempted to search any available databases, i.e. National Registries, telephone books, the Internet, to locate inventor Ju. Although petitioner indicates that "diligent" efforts were used to locate the non-signing

inventor, petitioner did not detail such efforts in the instant petition. Section 409.03(d) of the MPEP reads, in pertinent part, that “[w]here inability to find or reach a nonsigning inventor after diligent effort is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.” Petitioner provided no such recitation of petitioner’s alleged efforts and without the aforementioned the Office cannot determine whether the diligence requirement has been met.

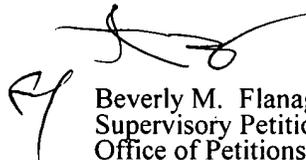
Further correspondence with respect to this matter should be addressed as follows:

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

By FAX: (703) 308-6919
Attn: Office of Petitions

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

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.


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



Dz-Ching Ju
1078 Robbia Drive
Sunnyvale, California 94087

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OCT 02 2001

OFFICE OF PETITIONS

In re Application of :
Thompson, Santhanam, Ju, and Bala :
Application No. 09/814,511 : LETTER
Filed: March 22, 2001 :
For: METHOD AND APPARATUS FOR ORDERED :
PREDICATE PHI IN STATIC SINGLE :
ASSIGNMENT FORM :

Dear Mr. Ju:

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 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).

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

Hewlett Packard Company
Intellectual Property Administration
PO Box 272400, Mail Stop 35
Fort Collins, Colorado 80527-2400



Paper No. 7

Hewlett Packard Company
Intellectual Property Administration
PO Box 272400, Mail Stop 35
Fort Collins, Colorado 80527-2400

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OCT 02 2001

OFFICE OF PETITIONS

In re Application of :
Thompson, Santhanam, Ju, and Bala :
Application No.: 09/814,511 :
Filed: March 22, 2001 :
Attorney Docket No: 10961404-1 :
For: METHOD AND APPARATUS FOR ORDERED :
PREDICATE PHI IN STATIC SINGLE ASSIGNMENT FORM :

DECISION ACCORDING
STATUS UNDER
RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 12, 2001.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on April 30, 2001, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised that the filing fees in the amount of \$710.00 had not been remitted. The Notice set forth an extendable period of reply of two months from its mailing date. Petitioner filed a response to the Notice on June 5, 2001, consisting of an appropriate petition under 37 CFR 1.47(a) and supplementary evidentiary documents. The petition was dismissed by a petition mailed June 19, 2001. The decision of June 19, 2001, indicated that petitioner did not provide sufficient proof that diligent efforts were made to locate the non-signing inventor. In response, petitioner filed the instant renewed petition on September 12, 2001.

By the instant renewed petition and accompanying evidentiary documents, petitioner has provided sufficient proof that diligent efforts were made to locate the non-signing inventor so as to present the non-signing inventor with a complete copy of the application papers. Because petitioner's inability to locate the non-signing inventor after diligent efforts has been established, this application is hereby accorded Rule 1.47(a) status.

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

The Change of Correspondence Address, filed September 12, 2001, is noted and made of record.

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

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.



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



HUGHES LAW FIRM, PLLC
Pacific Meridian Plaza, Suite 302
4164 Meridian Street
Bellingham, WA 98226-5583

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MAR 05 2008

OFFICE OF PETITIONS

Paper No. 10

In re Application of	:	
Steven H. Rice	:	
Application No. 09/814,581	:	DECISION ON PETITION
Filed: March 21, 2001	:	
Attorney Docket No. P313641	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 07 February 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before 16 August 2002, as required by the Notice of Allowance and Fee(s) Due, mailed 16 May 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on 17 August 2002.

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

The issue fee of \$720.00 and the publication fee of \$300.00 have been charged to deposit account 08-3260.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost six years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on 17 August 2002. That party, in turn must explain what effort(s) was

made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Robert B. Hughes was counsel of record at the time of abandonment, Robert B. Hughes should explain why this application became abandoned while it was under his control and what efforts Robert B. Hughes made to further reply of itself and with whom this matter was discussed outside of Hughes & Schacht P.L.L.C. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Robert B. Hughes and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Hughes & Schacht P.L.L.C., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over five years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005);

Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Hughes & Schacht P.L.L.C. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

- (A) the date that the applicant first became aware of the abandonment of the application; ✓
and
- (B) a showing as to how the delay in discovering the abandoned status of the application ✓
occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also New York University v. Autodesk*, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact Allen C. Ho regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.



David Bucci
Petitions Examiner
Office of Petitions



**HUGHES LAW FIRM, PLLC
PACIFIC MERIDIAN PLAZA, SUITE 302
4164 MERIDIAN STREET
BELLINGHAM WA 98226-5583**

MAILED

MAR 12 2009

In re Application of :
Steven H. RICE :
Application No. 09/814,581 :
Filed: March 21, 2001 :
Attorney Docket No. P313641 :

**OFFICE OF PETITIONS
DECISION ON PETITION**

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2009, 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 May 16 2002, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 17, 2002.

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 of \$770; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the office of Data Management.

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
www.uspto.gov

Paper No. 19

Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601SW Second Avenue
Portland, OR 97204

COPY MAILED

NOV 24 2003

OFFICE OF PETITIONS

In re Application of :
Reed Gleason :
Application No. 09/814,584 :
Filed: March 22, 2001 :
Attorney Docket No. 1016.0080 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2003, to revive the above-identified application, which is being treated as a request for a three-month extension of time.

The petition is Granted.

Accordingly, the \$465 duplicate payment and the \$650 petition fee will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center AU 3729 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



STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED

JAN 03 2008

OFFICE OF PETITIONS

In re Application of
Murakami et al.
Application No. 09/814,607
Filed: March 22, 2001
Attorney Docket No: 9437.15

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 8, 2007, 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 March 26, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on June 27, 2003. A Notice of Abandonment was mailed on October 1, 2003. A petition filed under 37 CFR 1.137(b) was dismissed on August 31, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional;

and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (3).

On renewed petition, a declaration from Larry V. Lunt the controlling member of Tarian LLC (hereinafter "Tarian") was provided. Mr. Lunt served as a Brigadier General until retirement in November of 2003. A group of investors named Union Recovery Corporation ("hereinafter URC") expressed an interest in buying out the Tarian shareholders in the beginning of 2002. An Asset Acquisition Agreement between Tarian and URC was signed on May 24, 2002. According to the agreement as conveyed by Mr. Lunt, the assets of Tarian including application 09/814,607 were deemed assigned to URC as of the closing date of May 25, 2002. The agreement required that URC make an initial payment 90 days after the closing date and subsequent payments on the anniversary of the closing date for six years. Mr. Lunt states that he assumed that URC would continue with regular processing of the above-identified application including responding to Office actions and paying fees which became due. URC never made any payments to Tarian.

Kirton and McConkie (hereinafter "K&M") Tarian's previous patent counsel informed Mr. Lunt that they foreclosed an attorney's lien on the assets in action against URC to collect payment of attorney's lien on the assets.

Ownership of the assets was not transferred back to an entity under Lunt's control until December 14, 2006. Mr. Lunt contacted his attorney to revive the application.

Petitioner's arguments have been considered, but they are not convincing to establish that Mr. Lunt is not a proper party

The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See *Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Charlema R. Grant
Petitions Attorney
Office of Petitions



STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED

OCT 07 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Murakami et al. :
Application No. 09/814,607 :
Filed: March 22, 2001 :
Attorney Docket No. 36360/1.14 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 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 March 26, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 27, 2003.

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 \$395, and the submission required by 37 CFR 1.114; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2131 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.

A handwritten signature in black ink, appearing to read "Charlema Grant". The signature is written in a cursive style with a large initial "C".

Charlema Grant
Petitions Attorney
Office of Petitions



Paper No. 7

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple Street
Salt Lake City, Utah 84111

MAILED

MAY 29 2002

Technology Center 2100

In re Application of: Rick V. Murakami et al.)	
Application No. 09/814,607	)	DECISION ON PETITION FOR
Filed: March 22, 2001	)	ACCELERATED EXAMINATION
For: METHOD FOR BIOMETRIC	)	UNDER M.P.E.P. §708.02(VIII)
AUTHENTICATION THROUGH)	
LAYERING BIOMETRIC TRAITS)	

This is a decision on the petition, filed February 26, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

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

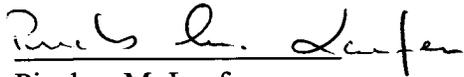
(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

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

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.



Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160



STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of
Murakami et al.
Application No. 09/814,607
Filed: March 22, 2001
Attorney Docket No: 9437.15

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2007, 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 March 26, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on June 27, 2003. A Notice of Abandonment was mailed on October 1, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37

CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (3).

As to item (3), although petitioner has provided a statement of unintentional delay, this application was abandoned for almost three years before the filing of the instant petition. Further review of the record shows that prior to the mailing of the Notice of abandonment former attorney Krieger was contacted. The October 3, 2003 interview summary shows that attorney Krieger informed the examiner that "no reply was being sent in response to the outstanding action and that no reply was going to be sent".

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137: (A) the delay in reply that originally resulted in the abandonment; (B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and (C) the delay in filing a grantable petition pursuant to 37 CFR 1.137 to revive the application.

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. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

Petitioner should provide further information regarding the cause of the abandonment and the delay in filing a grantable petition.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

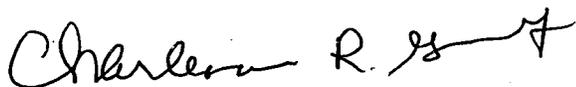
Application No. 09/814,607

Page 2

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.

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Charlema R. Grant
Petitions Attorney
Office of Petitions



STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED

OCT 07 2008

In re Application of :
Murakami et al. :
Application No. 09/814,607 :
Filed: March 22, 2001 :
Attorney Docket No. 36360/1.14 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 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 March 26, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 27, 2003.

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 \$395, and the submission required by 37 CFR 1.114; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2131 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.



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

Paper No. 17

Dan Hubert & Associates
3111 Camino Del Rio North
4th Floor
San Diego, CA 92108

In re Application of:
Baru
Application No. 09/814,623
Filed: March 22, 2001
For: SYSTEM AND METHOD FOR
CONSTRUCTION, STORAGE, AND
TRANSPORT OF PRESENTATION-
INDEPENDENT MULTI-MEDIA
CONTENT

MAILED

APR 30 2004

Technology Center 2100

**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 January 10, 2002.

A Power of Attorney Under 37 CFR 1.36 was filed on August 6, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed PARK, VAUGHAN & FLEMING LLP as the attorneys of record of the instant application. The Power Of Attorney of August 6, 2002, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by PARK, VAUGHAN & FLEMING LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Serial No.: 09/814,623
Decision on Petition

- 2 -

for James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

cc: PARK, VAUGHAN & FLEMING LLP
508 Second St., Suite 201
Davis, CA 95616



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

EDWARD J. GRUNDLER
PARK, VAUGHN & FLEMING LLP
508 SECOND ST., SUITE 201
DAVIS, CA 95616

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FEB 24 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Chaitanya Baru, et al.
Application No. 09/814,623
Filed: March 22, 2001
Attorney Docket No. OR02-04201

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:
:
:

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 2, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before November 16, 2004. Receipt is acknowledged of the requisite issue fee on December 2, 2004.

The application is being referred to Technology Center 2176 for consideration of the petition for correction of inventorship filed on December 2, 2004.

Thereafter, the application should be returned to Publishing Division for further processing.

Telephone inquiries related to this decision should 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



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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant : Harold Mattice : DECISION ON REQUEST FOR
Patent Number : 7462103 : RECALCULATION of PATENT
Issue Date : 12/09/2008 : TERM ADJUSTMENT IN VIEW
Application No : 09/814,638 : OF WYETH
Filed : 03/22/2001 :
:
:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/08

Paper No.: _____

TO SPE OF : ART UNIT 26/6

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/814/58 Patent No: 7092409 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- | | |
|---|---|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: ALL CHANGES APPLY

_____ ICPG/

_____ 01/05/09

_____ 2474
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/08

Paper No.: _____

TO SPE OF : ART UNIT 2616 2474

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/814158 Patent No: 7092409 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: ALL CHANGES APPLY

_____ /C.P.G./

_____ 01/05/09

/Aung S. Moe/

_____ 2474
SPE **Art Unit**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of :
Kinoshita, et al. :
Application No. 09/814,720 : DECISION ON PETITION
Filed: March 23, 2001 :
Attorney Docket No. 205006US2 :

This is a decision on the petition, filed September 4, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to properly and timely respond to the final Office action of November 1, 2006, which set a three (3) month shortened statutory period for reply. Applicants filed an amendment after final on March 27, 2007 with a request for a two month extension of time and credit card authorization for \$450.00. On April 13, 2007, the Office mailed an Advisory action, informing applicants that the amendment failed to place the application in *prima facie* condition for allowance. The Office has no record of receiving further correspondence from applicants. A proper reply was due on or before April 1, 2007.

Petitioner states that a proper reply was in fact timely filed on April 27, 2007. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 27, 2007 of, *inter alia*, a RCE transmittal, a request for an extension of time for the third month, and credit card authorization for \$1,360. A copy of the previously submitted reply accompanies the petition.

The RCE transmittal and request for extension of time acknowledged as having been received in the USPTO on April 27, 2007 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the RCE transmittal and the extension of time were timely received in the USPTO but lost after receipt thereof. It is noted that a review of Office financial records for the

above-identified application reveals that a \$790.00 RCE fee and a \$570.00 extension of time were received on mailroom date April 27, 2007.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 27, 2007.

This application is being referred to Technology Center AU 2616 for appropriate action in the normal course of business on the timely filed reply resubmitted with petition.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

APR 7 2006

OFFICE OF PETITIONS

In re Patent No. 6,919,003 :
Issued: July 19, 2005 : DECISION ON APPLICATION FOR
Application No. 09/814,734 : PTA and NOTICE OF INTENT
Filed: March 23, 2001 : TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: 684.3156 : CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d)," filed September 19, 2005.

The request for reconsideration of patent term adjustment is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,919,003 on July 19, 2005. The instant request for reconsideration was timely filed September 19, 2005 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 544 days. Applicants argue that the adjustment of 691 days was improperly reduced 84 days in connection with a submission dated April 27, 2005.

A review of the application history reveals that the adjustment of 691 days for Office delay was properly reduced 61 days for the filing after the mailing of the Notice of Allowance of corrected drawings on February 17, 2005. However, the adjustment was improperly reduced an additional 84 days in connection with the submission dated April 27, 2005 wherein applicants argued that contrary to the Notice of Drawing Inconsistency mailed April 18, 2005, Figure 5 contained in the drawings filed February 17, 2005 was listed in the Brief Description of Drawings contained in the specification. Accordingly, the Notice of Drawing Inconsistency mailed April 18, 2005 was mailed in error and the reduction associated therewith is not warranted.

In view thereof, the patent is entitled to an adjustment of 628 days as argued by applicants.

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 628 days.

The required application fee of \$200.00 has been charged to applicants' deposit account as authorized.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over a horizontal line. The signature is stylized and cursive.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,919,003 B2

DATED : July 19, 2005

INVENTOR(S) : Ikeda, 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 544 days

Delete the phrase "by 544 days" and insert – by 628 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 14 2003

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

Hunton & Williams
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

In re Application of	: DECISION ON PETITION
Stacy Jean Yeater et al	: TO WITHDRAW
Serial No. : 09/814,767	: HOLDING OF
Filed : March 23, 2001	: ABANDONMENT
For : Adult Incontinence Article that Can Be Donned	:
Without Removing Clothing	:

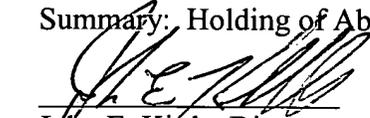
This is a decision on petitioner's request filed June 16, 2003, to review the holding of abandonment mailed April 21, 2003, for failure to respond to the Office action mailed August 26, 2002. The basis for the request is that applicant did not receive the Office action mailed August 26, 2002 nor the Notice of Abandonment mailed April 21, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53. The request filed June 16, 2003 includes all the above elements. The request is therefore GRANTED.

A review of the file shows, as correctly pointed out by applicants' representative, that the Office communications of August 26, 2002 and April 21, 2003 were mailed to an incorrect address as the Office had processed a revocation of Power of Attorney that was inadvertently matched with this file (the SN matched that of the instant application but all other identifying information did not). Requester became aware of the abandoned status of the instant application when he received a copy of the Notice of Abandonment from the Office of the law firm that was inadvertently receiving the communications. Any inconvenience is respectfully regretted.

Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of August 26, 2002.

Summary: Holding of Abandonment Withdrawn.


 John E. Kittle, Director
 Groups 3730 and 3760
 Phone: (703) 308-0873



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

MAY 05 2004

OFFICE OF PETITIONS

In re Application of
Karen L. Brown, et al.
Application No. 09/814,783
Filed: March 23, 2001
Attorney Docket No. 47004.000126

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

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 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 January 30, 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 August 12, 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 3628 for examination in due course.



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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAPER NO.

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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AUG 05 2004

OFFICE OF PETITIONS

In re Patent No. 6,709,261 :
Cargile et al. : LETTER REGARDING
Issue Date: March 23, 2004 : PATENT TERM ADJUSTMENT
Application No. 09/814,793 :
Filed: March 23, 2001 :
Atty Docket No. 29953-168209 :

This letter is in response to the "Request for PTA Calculation Review," filed March 31, 2004, pursuant to Comment 43 of the Final Rule. Patentees request that the PTA of 0 days for this application be reviewed for accuracy and adjusted if appropriate.

The request is **DISMISSED**.

Patentees are given **thirty (30) days** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On March 23, 2004, the above-identified application matured into U.S. Patent No. 6,709,261. The patent issued with a Patent Term Adjustment of 0 days.

A review of the application history supports a conclusion that the patent term adjustment of 0 days indicated in the patent is correct. However, this PTA does include a longer period of adjustment than patentees are entitled to. After the mailing of the notice of allowance, the period of adjustment should not have been increased by 175 days for Office delay in responding to applicants' response filed November 12, 2002. The Office mailed a non-final Office action within four months, on February 7, 2003. Likewise, the notice of allowance and notice of allowability mailed September 3, 2003 were mailed within four months of applicants' response filed August 7, 2003. Regardless, the period of reduction far exceeds the correct period of adjustment (78 days) in this application.

In view thereof, the patent issued with the correct PTA of 0 days.

As this letter was submitted as an attempt to advise the Office of an error in Patentee's favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The fee submitted

is being refunded to Deposit Account No. 22-0261, as authorized. 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 returned to the Certificate of Corrections Branch for consideration of patentees' request in accompanying paper for a "Certificate of Correction under 37 CFR § 1.322" on other grounds.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of :
Hemsath et al. : DECISION ON PETITION
Application No. 09/814,808 :
Filed: March 21, 2001 :
Atty Docket No.AUS920000208US1:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed September 21, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective December 22, 2004. A courtesy Notice of Abandonment was mailed on October 5, 2005.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Technology Center AU 2135 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 14, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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MICAH D. STOLOWITZ
STOEL RIVES LLP
900 SW FIFTH AVENUE, SUITE 2600
PORTLAND, OR 97204-1268

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrzej Uszok et al	:	
Application No. 09/814,846	:	DECISION ON PETITION
Filed: March 21, 2001	:	TO WITHDRAW
Attorney Docket No. 40820/2:1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2002.

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 Micah D. Stolowitz on behalf of all attorneys of record.

Applicant is reminded that there is no attorney of record at this time.

The revocation of power of attorney submitted November 10, 2005 is not accepted. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied. Therefore, in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

All future correspondence will be directed to the first named inventor Andrzej Uszok at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.



David Budci
Petitions Examiner
Office of Petitions

cc: Andrzej Uszok
ul. Mikolowska 185
43-187 Orzesze
Poland

cc: Huges Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
Bellingham, WA 98226



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ANDRZEJ USZOK
UL. MIKOŁOWSKA 185
48-187 ORZESZE
PORTLAND

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Andrzej Uszok et al :
Application No. 09/814,846 : DECISION ON PETITION
Filed: March 21, 2001 :
Attorney Docket No. 40820/2:1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed September 21, 2006, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

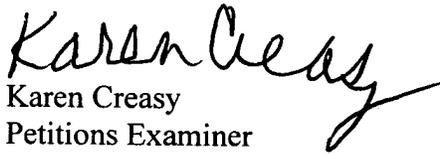
such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the first signing inventor's address until appropriate instructions are received.

The address currently of record appears not to be a valid address.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Technology Center AU 2194 to consider the reply received November 6, 2008.


Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**MATTHEW JELLETT
114 W. MAGNOLIA ST.,
SUITE 445
BELLINGHAM WA 98225**



Paper No. 10

Patrick J. Coyne
Collier Shannon Scott PLLC
Suite 400
3050 K St., NW
Washington, DC 20007

MAILED

MAR 05 2002

**TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER**

In re Application of:
Liu et al.
Application No. 09/814,853
Filed: March 23, 2001

**DECISION ON REQUEST TO
WITHDRAW FROM RECORD**

This is a decision on the requests to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 9, 2002 and January 29, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

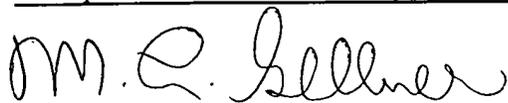
The request meets all the above stated requirements. The request was signed by Patrick J. Coyne on behalf of himself and all the attorneys of record. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Matthew J. Simmons, IV, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Michael L. Gellner at 703-308-1721.



Michael L. Gellner, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: John E. Johnnidis
e MAGNIN Corp.
2070 Route 52
Hopewell Junction, NY 12533



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

John E. Johnnidis
e MAGIN Corporation
2070 Route 52
Hopewell Junction, NY 12533

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of :
Yachin Liu, et al. :
Application No. 09/814,853 :
Filed: March 23, 2001 :
Attorney Docket No. 43100-06006 :

ON PETITION

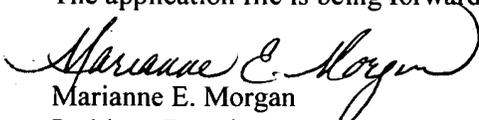
This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Joseph Murphy 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. If Mr. Murphy desires to receive future correspondence regarding this application, an 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 will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800.


Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Joseph F. Murphy
Epstein, Drangel, Bazerman & James, LLP
60 East 42nd Street, Suite 280
New York, NY 10165



JOHN E. JOHNNIDIS
EMAGIN CORPORATION
2070 ROUTE 52
HOPEWELL JUNCTION NY 12533

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OFFICE OF PETITIONS

In re Application of :
Liu et al. :
Application No. 09/814,853 :
Filed: March 23, 2001 :
Attorney Docket Number: 43100-06006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 3, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 4, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

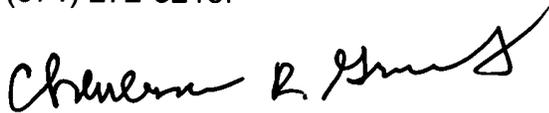
The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). 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 present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

CC: Robert L. Epstein
60 East 42nd Street, Suite 820
New York, NY 10165



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

Patent No. : 7206025
Inventor(s) : Seung CHOI
Issued : 4/17/2007
Title : DEVICE AND METHOD FOR CONVERTING FORMAT IN DIGITAL TV
RECEIVER
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [30] is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BIRCH STEWART KOLASCH & BIRCH LLP
8110 Gate House Road
SUITE 100 EAST
P.O. BOX 747
FALLS CHURCH, VIRGINIA 22040-0747

HR/CBN



Paper No. 8

G. ROGER LEE
FISH & RICHARDSON P.C.
225 FLANKLIN STREET
BOSTON , MA 02110-2804

COPY MAILED

OCT 02 2001

OFFICE OF PETITIONS

In re Application of :
Mason, Watson, Nikzad, and Joseph :
Application No.: 09/814,879 :
Filed: March 22, 2001 :
Attorney Docket No: 04873-082001 :
For: METHOD AND APPARATUS FOR IMPLEMENTING :
ALERTS ON A BROWSER RUNNING ON APORTABLE :
HANDHELD DEVICE :

DECISION ACCORDING
STATUS UNDER
RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 4, 2001.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The instant petition was filed in response to a Notice to File Missing Parts of Nonprovisional Application (the "Notice") mailed May 1, 2001. The Notice set forth an extendable period for reply of two months from its mailing date. The Notice advised that filing fees and additional claim fees were due along with a surcharge, declaration in compliance with 37 CFR 1.63 for all named inventors, and substitute drawings. On September 4, 2001, petitioner filed the instant petition, declarations for all named inventors, except inventor Arman Nikzad, and substitute drawings in response to the Notice. Petitioner also remitted the appropriate amounts to cover the filing fee, additional claims fee, and surcharge.

By the instant petition, petitioner has established that inventor Nikzad was presented with a complete copy of the application papers, but that inventor Nikzad has refused to join 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 the Office of Initial Patent Examination for further processing.

In re Application of Mason, Watson, Nikzad, and Joseph
09/824,879

Page 2

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Jones Day
222 East 41st Street
New York, NY 10017

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of Millard et al. :
Application No. 09/814,987 : Decision on Petition
Filing Date: March 22, 2001 :
Attorney Docket No. 10143.005 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 February 24, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on May 24, 2005. A Notice of Abandonment was mailed on September 8, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

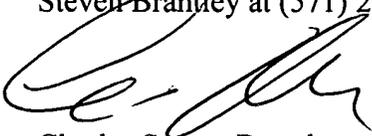
There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The petition is signed by Steven Underwood. Underwood was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Underwood was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Underwood that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances

of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay 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.

Technology Center Art Unit 3628 will be informed of the instant decision and the application, including the papers filed September 2, 2005, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Morgan Lewis & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004

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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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SEP 11 2008

In re Application of :
Millard et al. :
Application No. 09/814,987 : DECISION ON PETITION
Filed: March 22, 2001 :
Attorney Docket No. 10143-005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$770.00; and (3) a proper statement of unintentional delay.

Further, the Change of Correspondence Address submitted with the instant petition will not be entered since it is not signed by a properly authorized person. Any papers submitted must be signed by a person with a designated power of attorney. Further, since the address given on the petition differs from the address of record a courtesy copy of this decision is being mailed to the address 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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3692 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.



Liana Walsh
Petitions Examiner
Office of Petitions

cc: Morgan, Lewis, & Bockius, L.L.P.
Francis E. Morris
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004



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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVE NW
WASHINGTON DC 20001-4413

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FEB 03 2005

OFFICE OF PETITIONS

In re Application :
Koichi Kobayashi :
Application No. 09/815,006 : DECISION ON APPLICATION
Filed: March 23, 2001 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 5225.0199 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred thirty-nine (539) days to five hundred seventy-six (576) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **five hundred seventy-six (576) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 25, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred thirty-nine (539) days. On January 5, 2005, Applicant timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred seventy-six (576) days.

Applicants assert entitlement to a patent term adjustment of five hundred seventy-six (576) days on the basis that the PTO improperly assessed Applicants a delay of thirty-nine (39) days for responding to a Notice to File Missing Parts mailed on May 18, 2001. Applicants assert that they filed a response on August 20, 2001, and as such should only have been assessed delay of two (2) days.

Applicant fails to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of five hundred thirty-nine (539) days based on an adjustment for PTO delay of five hundred seventy-eight (578) 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 two (2) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 2 days is at issue.

The adjustment of 2 days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on May 18, 2001. Applicant timely filed a complete response to this notice on August 20, 2001. Accordingly, 2 days of applicant delay should have been assessed pursuant to 37 CFR 1.704(b), not thirty-nine (39) days.

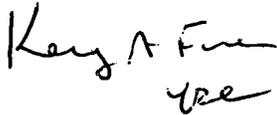
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred seventy-six (576) days** (578 days of PTO delay reduced by 2 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

¹ Applicant filed the application for patent term adjustment on the same date as the issue fee.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Handwritten signature of Karin Ferriter in cursive script.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen



Briggs and Morgan, PA
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Burgeson :
Application No. 09/815,030 : **DECISION ON PETITION**
Filed: March 22, 2001 :
Title: Scent Dispenser :

This is a decision on the petition under 37 CFR 1.181, filed March 31, 2006, to withdraw the holding of abandonment.

On July 12, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the absence of a timely reply, the application became abandoned on October 13, 2005. On March 10, 2006, the Office mailed a Notice of Abandonment.

Petitioner asserted that a proper response was filed timely. In support of the petition, petitioner submitted a copy of a returned, date-stamped postcard receipt,¹ acknowledging receipt of a "Transmittal Cover Letter (1 pg.) and Amendment and Response (6 pgs)" in the USPTO on October 13, 2005. Copies of these documents, which contain a certificate of mailing dated October 11, 2005, accompany this petition.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The application is restored to pending status in view of the fact that a response was timely filed and received in the USPTO on October 13, 2005 (certificate of mailing dated October 11, 2005).

This matter is being referred to the Technology Center Art Unit 3643.

¹ Section 503 of the MPEP 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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**STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005**

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JUN 15 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takae et al. :
Application No. 09/815,038 :
Filed: March 23, 2001 :
Attorney Docket No. 1614.1152 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed November 17, 2004. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on April 15, 2005. Accordingly, this application became abandoned on April 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$570.00 extension of time fee submitted with the petition on June 7, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Paper No. 6

Snell & Wilmer
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-0001

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OFFICE OF PETITIONS

In re Application of :
David Mig Oppenheimer, et al. :
Application No. 09/815,062 :
Filed: March 22, 2001 :
Attorney Docket No. 36761.2100 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice To File Missing Parts of Non-Provisional Application mailed May 24, 2001, which set a shortened statutory period for reply of two(2) months. A three(3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 25, 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 37CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner



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MAIL

OCT 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

SNELL & WILMER
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-0001

In re Application of:
David OPPENHEIMER, et al.
Application No. 09/815,062
Filed: March 22, 2001
For: INTEGRATED SYSTEM AND METHOD
OF PROVIDING ONLINE ACCESS TO
FILES

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 9, 2004.

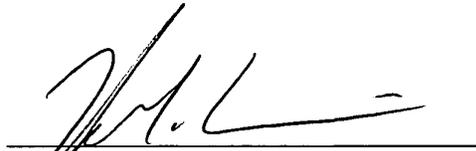
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 **further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Serial No.: 09/815,062
Decision on Petition

- 2 -



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750



DEC 20 2004

Leopold Presser
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

In re Application of:
Zagon et al.
Serial No.: 09/815,069
Filed: March 22, 2001
Attorney Docket No.: 14405

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on August 18, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed December 1, 2003.

A review of the file history shows that the examiner mailed a communication regarding a non-responsive amendment to applicants on December 1, 2003, setting a one-month statutory time period for reply. On July 16, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on December 5, 2003, as evidenced by a copy of the Auto-Reply fax confirmation page showing receipt of the response by the USPTO on December 5, 2003 at 1:16 PM. The confirmation page also shows receipt of 9 pages which include a Certificate of Transmission under 37 CFR 1.8, response to the Office communication of December 1, 2003, a copy of the return stamped postcard form the USPTO dated June 18, 2003 and a copy of the amendment of June 16, 2003 with a copy of an executed declaration by all three inventors. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the elected invention on the merits.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600



Paper No. 8

GAZDZINSKI & ASSOCIATES
3914 MURPHY CANYON ROAD, SUITE A232
SAN DIEGO, CA 92123

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DEC 03 2001

OFFICE OF PETITIONS

In re Application of	:	
Miele et al.	:	
Application No. 09/815,080	:	DECISION GRANTING PETITION
Filed: March 22, 2001	:	
Attorney Docket No. VWAVE.003CP1	:	

This is a decision on the petition filed August 22, 2001, requesting that the above-identified application be accorded a filing date of March 22, 2001, with Figure 28c as part of the original disclosure.

The application was filed on March 22, 2001. However, on May 15, 2001, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application-Filing Date Granted, stating that the application had been accorded a filing date of March 22, 2001, but requiring applicants to submit an oath or declaration and a surcharge for its late filing. Additionally, the Notice stated Figure 28c described in the specification appeared to have been omitted..

In response, on August 22, 2001, applicant submitted, inter alia, the present petition, a request for a one (1) month extension of time, and a copy of one (1) sheet of drawings containing Figures 28c and 18. The petition alleges that Figure 28c was filed on March 22, 2001.

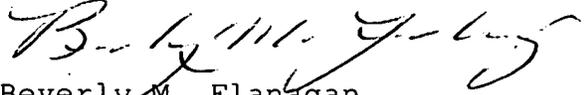
Upon review of the record, one (1) sheet of drawings containing Figures 28c and 18 has been located in the application file. Therefore, the application was complete on filing.

In view of the above, the petition is granted.

The \$130.00 petition fee is unnecessary, and therefore, will be credited to counsel's Deposit Account No. 50-1423.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 22, 2001, using the 55 sheets of drawings submitted with the original application.

Any inquiries related to this decision should be directed to
Petitions Attorney Christina Tartera Donnell at (703) 306-5589.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CTD



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Paper No. 14

Brinks Hofer Gilson & Lione
One Indiana Square, Suite 1600
Indianapolis, IN 46204-2033

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MAR 24 2004

OFFICE OF PETITIONS

In re Application of :
Paulo Nogueira et al. :
Application No. 09/815,105 :
Filed: March 22, 2001 :
Attorney Docket No. 12156/003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed September 24, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 25, 2002.

The application file is being forwarded to Technology Center AU 3635 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Re application of AMIT CHANDRA KHARKWAL et al.

Serial no.: 09/815,126

Filed: March 22, 2001

Title: IMPROVED METHOD FOR MASS PROPAGATION OF PODOPHYLLUM
HEXANDRUM ROYLE USING EMBRYO CULTURE TECHNIQUE

April 8, 2002

This is a decision on Applicant's petition under 37 C.F.R. 1.84, filed March 22, 2001, to approve color drawings. Applicant has complied with all the conditions set forth in 37 CFR 1.84(a)(2).

The petition is GRANTED.

Bruce Campell
Supervisory Patent Examiner
Technology Center 1600

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202



**IVAN S. KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036**

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JUL 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Uchida, Yuki :
Application No. 09/815,134 :
Filed: March 22, 2001 :
Attorney Docket No. 2271/61807 :

**DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)**

This is a decision on the petition, filed April 8, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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 5, 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 9, 2008 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on January 8, 2008. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Accordingly, the \$300.00 publication fee will now be charged to petitioner's deposit account as authorized.

This matter is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.



Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/815,134	03/22/2001	Yuki Uchida	2271/61807

CONFIRMATION NO. 4845

Ivan S. Kavrukov
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

NONPUBLICATION RESCISSION
LETTER



0C00000030727576

Date Mailed: 06/30/2008

**Communication Regarding Rescission Of
Nonpublication Request and/or Notice of Foreign Filing**

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/09/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"¹ then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and 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 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

¹ Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/lswalsh/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 14

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101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED

APR 11 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Colin Huggett et al :
Application No. 09/815,141 :
Filed: March 21, 2001 :
Attorney Docket No. H0001680 :

This is a decision on the petition, filed April 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 on January 21, 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 2838 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

Date : April 11, 2003
TO : Director, Office of Publication and Dissemination
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of
Applicant(s) : Colin Huggett et al
Application No. : 09/815,141
Filed : March 21, 2001

The above-identified application has been assigned Patent No. 6,549,435 and an issue date of April 15, 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 April 15, 2003:

"All reference to Patent No. 6,549,435 to Colin Huggett et al of California for ACTIVE FILTER FOR POWER DISTRIBUTION SYSTEM WITH SELECTABLE HARMONIC ELIMINATION appearing in the Official Gazette of April 15, 2003 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: 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, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

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)
6882549	2005-04-19	09815141	2001-03-21	H0001680

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 |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

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	/Alexis Saenz /	Date (YYYY-MM-DD)	2009-06-17
Name	Alexis Saenz	Registration Number	54570

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6882549 :
Issue Date: April 19,2005 :
Application No. 09815141 :DECISION GRANTING PETITION
Filed: March 21,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. H0001680 :

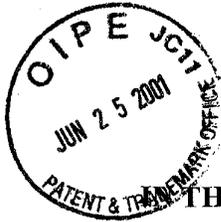
This is a decision on the electronic petition, filed June 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2009 . 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.

~~SECTOR~~
BOX 500



Attorney Docket: SML.03

THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	GOLD ET AL.)
SERIAL NO.:	09/815,171	) EXAMINER:
FILED:	MARCH 22, 2001	) ART UNIT: 1645
TITLE:	METHOD AND APPARATUS FOR THE	) CONFIRMATION NO: 4452
	AUTOMATED GENERATION OF NUCLEIC)
	ACID LIGANDS)

Assistant Commissioner for Patents
Washington, D.C. 20231
Box: Missing Part

Dear Sir:

REPLY TO NOTICE TO FILE MISSING PARTS

1. The applicant hereby replies to the "Notice to File Missing Parts of Nonprovisional Application," mailed June 4, 2001. A copy of the Notice is enclosed. In reply to the Notice, the applicant submits:

- (a) the basic filing fee of \$355.00;
- (b) surcharge fee of \$65.00;
- (c) additional claims fee of \$205.00;
(25 total claims, 5 X \$9.00 = \$45.00;
7 independent claims, 4 X \$40.00 = \$160.00)
- (d) assignment recordation fee of \$40.00;
- (e) a combined declaration and power of attorney signed by the inventors;
- (f) assignment and assignment recordation form cover sheet;
- (g) associate power of attorney; and
- (h) preliminary amendment with enclosures.

2. The undersigned hereby authorizes the charge of \$665.00 to Deposit Account No. 50-1643. This fee represents the filing fee (\$355.00), the surcharge (\$65.00), the additional claims fee (\$205.00), and the fee for recording the assignment (\$40.00). The foregoing fees are calculated as a small entity.

37 CFR 1.8

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on June 20, 2001

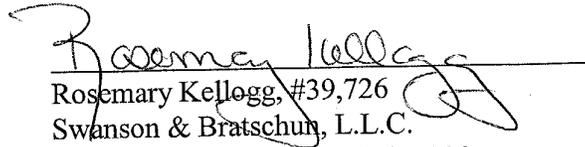
Signature: Elizabeth A. McArthur
Name: Elizabeth A. McArthur

3. Applicant claims small entity status. See 37 CFR 1.27

4. Also enclosed in response to the CFR Problem Report received on June 7, 2001, indicating that the CFR was blank, is a new CFR, paper copy of the sequence listing and Statement Under 37 C.F.R. § 1.821(f).

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to Deposit Account No. 50-1643 if not otherwise specifically requested. In addition, the undersigned authorizes the charge of any fees associated with the filing of this document, and its attachments, to Deposit Account No. 50-1643.

Respectfully submitted,

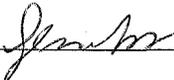


Rosemary Kellogg, #39,726
Swanson & Bratschun, L.L.C.
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
(303) 268-0066

cc: Vanessa Appleby
S:\Client Folders\Somalogic\SML03\Missing Parts Reply.doc

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Paper No. 10

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

In re the patent application of:
Forsyth, A., et al.
Application No.: 09/815,242
Filed: March 21, 2001
For: IDENTIFICATION OF ESSENTIAL GENES
IN PROKARYOTES

DECISION
ON PETITION

This is a decision under 37 C.F.R. 1.183, on a petition filed October 2, 2001 to waive the requirements of 37 C.F.R. §§ 1.52(b) and another petition filed May 10, 2002 to waive the requirements of 37 C.F.R. §1.98(a)(2). The first petition seeks a waiver to file copies of the sequence listing on compact disc. The second petition seeks a waiver for filing a copy of the sequence listing for a PCT publication number WO 01/34809 and EP 0786519 in an Information Disclosure Statement (IDS) filed in the above-identified application.

The petitions under 37 C.F.R. §1.183 to waive the rules in the above noted application is **GRANTED IN PART.**

There is no indication in the record why a sequence listing submitted on compact disc in the above identified application would fail to comply with 37 CFR §1.52(e). Amendments to the material submitted on compact discs can be done by submitting replacement compact discs if the material to be submitted is permitted by §1.52(e). See 37 CFR §1.52(e)(4). The petition is Granted In Part to the extent that any amended sequence listing may be submitted by providing replacement compact discs rather than paper copies as provided in 37 CFR §1.52(b).

37 C.F.R. §1.98 requires applicants to submit as part of an IDS a legible copy of the portion of the reference that caused it to included in the IDS. The size and method of publication of the sequence listing in PCT publication number WO 01/34809 and European Publication No. 0 786 519 makes it burdensome for applicant to submit, and for the Office to process if submitted, in the form it was published. Applicant and Michael Lewis of this office determined in earlier telephonic communications that the Office already has a copy of the sequence portion of the PCT and EP documents in a more usable form than applicant could submit.

Accordingly, it would be an unnecessary burden on both applicant and the Office to insist on a paper copy of the sequence portion of the PCT and EP documents.

The petition is Granted to the extent that no paper copy of the sequence portion of the PCT and EP references need be submitted with an IDS in this application.

After this decision is mailed, the application will be returned to the Technology Center 1600 for examination.

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.



Karin Ferriter
Senior Legal Advisor
Office Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



**EDWARDS & ANGELL
P.O. BOX 55874
BOSTON, MA 02205**

COPY MAILED

MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Yutaka Kamezaki et al :
Application No. 09/815,257 :
Filed: March 22, 2001 :
Attorney Docket No. 55521 (70904) :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 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 February 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2675 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES 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 : March 14, 2006
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

COPY MAILED
MAR 14 2006
OFFICE OF PETITIONS

Applicant(s) : Yutaka Kamezaki et al
Application No. : 09/815,257
Filed : March 22, 2001

The above-identified application has been assigned Patent No. 7,015,888 and an issue date of March 21, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 21, 2006:

"All reference to Patent No. 7,015,888 to Yutaka Kamezaki et al of Yokosuka-shi, JAPAN for DISPLAY DEVICE DRIVING CIRCUIT, DRIVING METHOD OF DISPLAY DEVICE, AND IMAGE DISPLAY DEVICE appearing in the Official Gazette of March 21, 2006 should be deleted since no patent was granted."

Wan Layman
Wan Layman
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Tamara K. Greene



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Fukuda, et al. : LETTER REGARDING PTA
Application No. 09/815,265 :
Filed: March 23, 2001 :
Atty. Dkt. No.: 065905/0223 :

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed June 22, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 872 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the PTA of 874 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(d) is incorrect, and that the correction PTA at the time of allowance was 872 days.

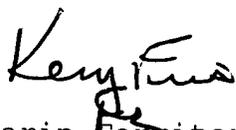
A review of the application history reveals that an adjustment of 874 days was properly attributed to the Office in accordance with 37 CFR 1.704(a)(1).

The adjustment is reduced two days in accordance with 37 CFR 1.704(b) as indicated by applicants. The adjustment began August 5, 2001, the day after the date that is three months after the date the Notice to File Missing Parts (Notice) was mailed, and ended August 6, 2001, the date a reply to the Notice was filed.

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 Publications Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation



UNITED STATES 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 AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Wen Y. Chen, et al.	:	
Application No. 09/815,306	:	DECISION ON PETITION
Filed: March 23, 2001	:	TO WITHDRAW
Attorney Docket No. 03587-0120	:	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 9, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on May 8, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GHC RESEARCH DEVELOPMENT
CORPORATION
701 GROVE ROAD
GREENVILLE, SC 29605



NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of
Anthony Nicolas Kalloo et al
Application No. 09/815,336
Filed: March 23, 2001
Attorney Docket No. 2784-25

ON PETITION

This is a decision on the petition, filed January 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3739 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAILED

FEB 10 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

09/815,337

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).


Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110



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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MAIL

MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION TO
WITHDRAW HOLDING OF
ABANDONMENT

Nixon & Vanderhye
1100 North Glebe Road
8th Floor
Arlington, VA 22201

In re Application of
Mats Cedervall, et al.
Application No. 09/815,337
Filed: March 23, 2001
For: **METHOD AND SYSTEM FOR LOCATING
MOBILE STATIONS IN A MOBILE
COMMUNICATION NETWORK**

This is a decision on the Petition to Withdraw the Holding of Abandonment, pursuant to 37 C.F.R. § 1.181(a), filed August 5, 2004 and supplemented on August 12, 2004. No fee is required.

This application became abandoned for failure to timely respond to the Non-Final Office Action mailed December 12, 2003. A Notice of Abandonment has not been mailed.

Petitioner alleges that the non-final Office Action mailed December 12, 2003 was not received. In support thereof, Petitioner provides a statement regarding search of the file and docket records as well as provides a copy of said docket records where the non-final Office action would have been logged had it been received.

Based on M.P.E.P. § 711.03(c) [*See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)*], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. 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 communication must include:

- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
- (b) 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,
- (c) 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 showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the records reveals that a petition to withdraw as power of attorney was errantly matched with the application and granted. This decision errantly changed the correspondence address for the subject application and hence, as pointed out by petitioner, the December 12,

2003 Office action was mailed to the incorrect address. Thus, there was an irregularity in mailing of the Non-Final Office Action on the part of the U.S. Patent and Trademark Office.

Accordingly, the petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for correction of the correspondence address to that listed above, re-mailing of the non-final Office action and restarting the time period for response.



Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 13

MAIL

NOV 22 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

In re Application Serial No.:

09/815,377

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706



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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John S Mortimer
Wood Phillips
Vansanten Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60661

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Patent of :
Enami et al :
Application No. 09/815,414 : DECISION
Filed: March 22, 2001 : ON PETITION
Attorney Docket Number: :
650.00529 :

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed March 30, 2006.

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 "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed April 14, 2004. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 15, 2004. A Notice of Abandonment was mailed February 26, 2006.

Applicant files the instant petition and fees by way of check in the amount of \$2660.00.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (1).

As to item (1), Applicant has not submitted a complete and proper reply to the Notice of Allowance and Issue Fee Due. The fee for a petition to revive under 37 CFR 1.137(b) is \$1500.00, and the (current) issue fee due is \$1400.00. Applicant has submitted \$2660.00. Applicant must submit an additional \$240.00 before the petition may be granted.

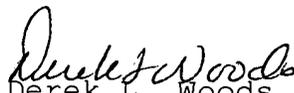
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John S Mortimer
Wood Phillips
Vansanten Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60661

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Patent of :
Enami et al :
Application No. 09/815,414 : DECISION
Filed: March 22, 2001 : ON PETITION
Attorney Docket Number: :
650.00529 :

This is a decision on the Renewed Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed May 22, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed April 14, 2004. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 15, 2004. A Notice of Abandonment was mailed February 26, 2006.

With the instant petition Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-6-07

Paper No.: _____

TO SPE OF : ART UNIT 2138

SUBJECT : Request for Certificate of Correction for Appl. No. 09/815441 Patent No.: 7165202

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.

Should C O & L be approved
Please complete the response (see below) and forward the completed response to scanning using document code COCX.

Ernie 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: All corrections are approved except for adding --5,099,509-- under
"References Cited" section

/Kevin L Ellis/ 2117
SPE Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWREY SIMON ARNOLD & WHITE LLP
301 RAVENSWOOD AVE
BOX 34
MENLO PARK CA 94025

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re :
Moore, et al. : DECISION ON APPLICATION
Application No. 09/815,447 : FOR PATENT TERM ADJUSTMENT
Filed: March 21, 2001 : AND
Patent No. 6,963,875 : NOTICE OF INTENT TO ISSUE
Issued: November 8, 2005 : CERTIFICATE OF CORRECTION

This decision is in response to the letter, filed November 14, 2005, notifying the Office of an error in Patentees' favor in the determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **six hundred twenty-five (625)** days.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,963,875. The patent issued with a Patent Term Adjustment of six hundred sixty-nine (669) days. Patentees state that according to their calculation the patent term adjustment should be five hundred sixty-three (563) days.

The Office determined a patent term adjustment of six hundred sixty-nine (669) days based on an adjustment for PTO delay of six hundred forty (240) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), twenty-six (26) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R.

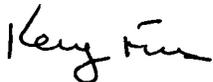
§ 1.703(a)(2), and eighty (80) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by applicants' delay of seventy-seven (77) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8).

A review of the application reveals that applicants should have been assessed additional delay of forty-four (44) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The Office mailed a Notice Regarding Drawings on August 5, 2005. Applicants filed a response on September 26, 2005. The application issued into a patent on November 8, 2005. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(10), applicants should have been assessed delay from September 26, 2005 until November 8, 2005, or forty-four (44) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is six hundred twenty-five (625) days (746 (640+26+80) days of PTO delay, reduced by 121 (77+44) days of applicant delay). Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate. No petition fee was 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 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **six hundred twenty-five (625) days** subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction (1 page)



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 04 2010

OFFICE OF PETITIONS

**HOWREY LLP
IP DOCKETING
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042**

In re Patent No. 6,963,875 :
Issue Date: November 8, 2005 :
Application No. 09/815,447 : **ON PETITION**
Filed: March 21, 2001 :
Attorney Docket No. :
02737.0004.NPUS01 :

This is a decision on the petition filed January 19, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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MARGER JOHNSON & MCCOLLOM, P.C. - NOVELL
210 SW MORRISON STREET
SUITE 400
PORTLAND OR 97204

COPY MAILED

MAR 31 2008

In re Application : **OFFICE OF PETITIONS**
Ramachandran, et al. :
Application No. 09/815,454 : PATENT TERM ADJUSTMENT
Filed: March 22, 2001 :
Dkt. No.: 6647-20 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 22, 2007.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED IN PART and HELD IN ABEYANCE IN PART.**

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed May 24, 2007, indicated a patent term adjustment (PTA) to date of 1,051 days. The instant application for PTA was timely filed August 22, 2007, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is 1,051 days, as indicated on the Determination of Patent Term Adjustment mailed May 24, 2007.

Applicants herein do not dispute the patent term adjustment (PTA) accorded to date (1,052 days).

Applicants dispute the reduction of one day in connection with the response after non-final action received December 9, 2004. Applicants argue that the response to the non-final Office action mailed September 8, 2004 bore a certificate of mailing date of December 8, 2004 in accordance with 37 CFR 1.8.

Applicants' arguments have been carefully considered, but are not persuasive. The date indicated on any certificate of mailing or transmission under § 1.8 is not taken into account in the calculation of patent term adjustment. See, 37 CFR 1.703(f). Further, in accordance with 37 CFR 1.8, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the

procedure described at 37 CFR 1.8 is followed. The actual date of receipt will be used for all other purposes, such as the calculation of patent term adjustment.

In view thereof, the adjustment of 1,052 days is properly reduced one day, the reduction commencing December 9, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ending December 9, 2004, the date that the response after non-final rejection was received.

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 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

Day : Friday
Date : 3/28/2008

Time : 16:55:48

 **PALM INTRANET**

PTA Calculations for Application: 09/815454			
Application Filing Date:	03/22/2001	PTO Delay (PTO):	1052
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1
Post-Issue Petitions:	0	Total PTA (days):	1051
PTO Delay Adjustment:	0		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
66	03/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
65	03/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
58	05/24/2007	MAIL NOTICE OF ALLOWANCE			
57	05/23/2007	ISSUE REVISION COMPLETED			
56	05/23/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	05/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
54	05/15/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
53	05/14/2007	DOCUMENT VERIFICATION			
52	05/13/2007	NOTICE OF ALLOWABILITY			
51	03/31/2007	DATE FORWARDED TO EXAMINER			
50	03/27/2007	RESPONSE AFTER NON-FINAL ACTION			
49	02/26/2007	MAIL NON-FINAL REJECTION			
48	02/23/2007	NON-FINAL REJECTION			
47	02/15/2007	DATE FORWARDED TO EXAMINER			
46	02/08/2007	AMENDMENT AFTER FINAL REJECTION			
45	01/08/2007	MISCELLANEOUS INCOMING LETTER			
44	01/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
43	01/08/2007	FINAL REJECTION			
42	09/20/2005	MISCELLANEOUS INCOMING LETTER			
41	11/04/2006	DATE FORWARDED TO EXAMINER			
40	11/01/2006	RESPONSE AFTER NON-FINAL ACTION			
39	09/21/2006	MAIL NON-FINAL REJECTION			
38	09/18/2006	NON-FINAL REJECTION			
37	07/12/2006	DATE FORWARDED TO EXAMINER			
36	07/06/2006	RESPONSE AFTER NON-FINAL ACTION			

35	06/09/2006	MAIL NON-FINAL REJECTION	200		22
34	06/06/2006	NON-FINAL REJECTION			
33	04/28/2006	CORRESPONDENCE ADDRESS CHANGE			
32	04/28/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	04/10/2006	DATE FORWARDED TO EXAMINER			
30	04/11/2006	MAIL APPEALS CONF. REOPEN PROSEC.			
29	04/07/2006	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
28	09/20/2005	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
27	09/20/2005	NOTICE OF APPEAL FILED			
26	09/20/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	09/28/2005	MAIL ADVISORY ACTION (PTOL - 303)			
24	09/26/2005	ADVISORY ACTION (PTOL-303)			
23	07/31/2005	DATE FORWARDED TO EXAMINER			
22	07/21/2005	AMENDMENT AFTER FINAL REJECTION			
21	07/21/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
20	04/21/2005	MAIL FINAL REJECTION (PTOL - 326)	12		17
19	04/18/2005	FINAL REJECTION			
18	02/16/2005	DATE FORWARDED TO EXAMINER			
17	12/09/2004	RESPONSE AFTER NON-FINAL ACTION		1	14
16	12/09/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
15	12/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	09/08/2004	MAIL NON-FINAL REJECTION	840		-1
13	09/07/2004	NON-FINAL REJECTION			
12	08/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	08/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	12/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	08/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	02/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	08/29/2001	APPLICATION DISPATCHED FROM OIPE			
6	05/16/2001	APPLICATION IS NOW COMPLETE			
5	05/16/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

4	05/15/2001	CORRESPONDENCE ADDRESS CHANGE			
3	05/15/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/22/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

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. 5

Ellis, Venable & Busam LLP
Suite 702
3030 N. Central Avenue
Phoenix AZ 85012

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Clower E. Maloy
Application No. 09/815,473
Filed: March 23, 2001
Attorney Docket No. PHLV0360-002

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit substitute drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed May 4, 2001, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on July 5, 2001.

The file does not indicate a change of address has been submitted, although the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

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



ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

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FEB 21 2006

OFFICE OF PETITIONS

In re Patent of Bruchez et al.	:	
Patent No. 6,653,080	:	
Issue Date: November 25, 2003	:	Decision on Petition
Application No. 09/815,510	:	
Filing Date: March 22, 2001	:	
Attorney Docket No. 5100-0703	:	

This is a decision on the petition under 37 CFR 1.182, filed October 13, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **dismissed**.

Petitioner has not submitted the petition fee. The petition fee will only be waived upon a showing of non-receipt of the letters patent. The current showing of record is fails to establish non-receipt of the letters patent.

In the absence of any irregularity in the mailing of a paper by the Office, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, a petition alleging non-receipt of a paper must:

- (1) include a statement from practitioner stating that the paper was not received,
- (2) attest that a search of the file jacket, or the location where the paper would have been stored, has been made,
- (3) attest that a search of all relevant docket records has been made, and
- (4) include a copy of the docket record where the Office action would have been entered had it been received.

Petitioner should provide the petition fee of \$400 or additional evidence the letters patent was never received at the law firm.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. 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.

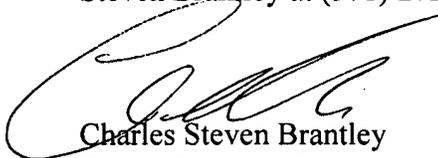
Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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SUITE 230
PALO ALTO, CA 94303

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MAR 01 2006

OFFICE OF PETITIONS

In re Patent of Bruchez et al. :
Patent No. 6,653,080 :
Issue Date: November 25, 2003 : Decision on Petition
Application No. 09/815,510 :
Filing Date: March 22, 2001 :
Attorney Docket No. 5100-0703 :

This is a corrected decision on the petition under 37 CFR 1.182, filed October 13, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Office will issue duplicate Letters Patent.

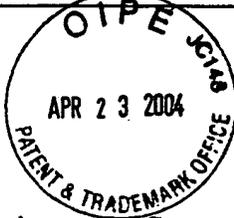
The petition fee of \$400 has been charged to petitioner's deposit account.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 703-746-4642)



Paper No. 10

COPY

Edwards Lifesciences LLC
Law Dept.
One Edwards Way
Irvine CA 92614

COPY MAILED

MAY 22 2003

OFFICE OF PETITIONS

In re Application of
Yang, Pease & Walsh
Application No. 09/815,521
Filed: March 23, 2001
Attorney Docket No. ECV-5633
For: ROLLED MINIMALLY-INVASIVE HEART
VALVES AND METHODS OF USE

:
: ON PETITION
:
:

This is a decision on the petition filed April 3, 2003 under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.64, which requires each of the actual inventors to execute the declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 is **GRANTED**.

The petition under 37 CFR 1.48(a) to correct inventorship is **GRANTED**.

An executed declaration in compliance with 37 CFR 1.63 was filed with the original application papers on March 23, 2001. The executed declaration listed only one inventor -- Jibin Yang.

The instant petitions were filed to correct the inventorship by adding Matthew L. Pease and Brandon G. Walsh as joint inventors. The evidence presented shows that Jibin Yang was mailed a complete copy of the application as filed and a declaration for his execution on two separate occasions. He did not respond to either request to return an executed declaration. The Office views his behavior as a constructive refusal to sign the supplemental declaration. Petitioners have shown (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).

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 is granted.

Petitioners have also satisfied the requirements of 37 CFR 1.48(a): Petitioners requested correction of inventorship and set forth the desired inventorship change; each person being added as an inventor provided a statement that the error in inventorship occurred without deceptive intention on his part; the processing fee has been authorized; and written consent of the assignee was submitted. Having obtained a waiver of 37 CFR 1.64, petitioners have satisfied the declaration component of 37 CFR 1.48(a).

Petitioners have shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2). The inventorship of this application has been changed by the addition of Matthew L. Pease, Mountain View, CA and Brandon G. Walsh, Livermore, CA.

Please find enclosed a corrected filing receipt that reflects the corrected inventorship.

Pursuant to petitioners' authorization, deposit account no. 50-1225 will be charged a \$130.00 fee for filing a petition under 37 CFR 1.183 and a \$130.00 fee for filing a petition under 37 CFR 1.48(a).

After the mailing of this decision, the application will be forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to Petitions Attorney E. Shirene Willis at 703 308-6712.



Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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. 7

Ira V. Haffan
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Jules, et al.
Application No. 09/815,560
Filed: March 23, 2001
For: ROBUST VISUAL PASSWORDS

MAILED
MAR 23 2004
Technology Center 2100

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.

Serial No.: 09/815,560
Decision on Petition

- 2 -

for James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Eric L. Prah, Esq.
HALE AND DORR LLP
60 State Street
Boston, MA 02109



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704**

COPY MAILED

MAY 19 2008

In re Application of
GILBERT, Andrew C. et al.
Application No. 09/981,565
Filed: October 17, 2001
Attorney Docket No. **01-1040**

**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 February 19, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to ROPES & GRAY LLP has been revoked by the assignee of the patent application on April 01, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022**



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

Kirton & McConkie
60 East South Temple, Suite 1800
Salt Lake City, Utah 84145

SEP - 6 2002

In re Application of	:	
Rick V. Murakami et al	:	
Application No. 09/815,568	:	DECISION ON PETITION
Filed: March 23, 2001	:	TO MAKE SPECIAL
Attorney Docket No. 9437.13	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 26, 2002, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) 50-0843 the required petition fee of \$130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the

examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

For 
Hien H. Phan, Special Program Examiner
TC 2800 - Semiconductor, Electrical and
Optical Systems and Components



Paper No. 22

**KIRTON AND MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P O BOX 45120
SALT LAKE CITY, UT 84145-0120**

COPY MAILED

APR 20 2006

OFFICE OF PETITIONS

In re Application of
Rick V. Murakami et al
Application No. 09/815,568
Filed: March 23, 2001
Attorney Docket No. 9437.13

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ON PETITION

This is a decision on the petition under 37 CFR 1.17(m), filed December 14, 2005, which is being treated under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 19, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of November 19, 2003 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This application is being forwarded to Technology Center AU 2863.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 06, 2008

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/815,568 Patent No.: 7133792 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee named below via scanning the application images using document code COCX

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

**Certificates of Correction Branch
703-308-9390 ext. 112**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- Approved** All changes apply.
- Approved in Part** Specify below which changes do not apply.
- Denied** State the reasons for denial below.

Comments: All Correction OK for entry

/John E. Barlow, Jr/, SPE
SPE

2863
Art Unit



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Alexandria, VA 22313-1450
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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

JUL 08 2009

OFFICE OF PETITIONS

In re Application of :
Gastineau et al. :
Application No. 09/815,589 : RESPONSE TO PETITION
Filed: March 23, 2001 :
Attorney Docket No. 00322.0007.CNUS01 :

This is a response to the petition under 37 CFR 1.59(b), filed May 8, 2008, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that the document labeled Foreign Reference and the electronic receipt dated May 1, 2008 be expunged from the above identified application. The petition submits that this information was unintentionally submitted in the above identified application during a training session on electronic filing.

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicants or applicants' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the**

petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.



Christopher Bottorff
Petitions Examiner
Office of Petitions



KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

COPY MAILED

OCT 14 2005

OFFICE OF PETITIONS

In re Application of

Jun Itoh

Application No. 09/815,609

Filed: March 23, 2001

Attorney Docket No. FUJH 18.454

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DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

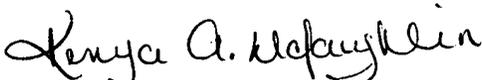
The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on April 8, 2005. A Notice of Abandonment was mailed August 24, 2005.

The amendment filed September 28, 2005, is noted.

The petition fee of \$1,500.00 will be charged to deposit account 50-1290.

The application is being directed to Technology Center 2600, GAU 2667 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



MAIL

APR 19 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

James David Jacobs
BAKER & MCKENZIE LLP
805 Third Avenue – 29th Floor
New York, NY 10022

In re Application of:
Zvetan Dragulev
Application No. 09/815,610
Filed: March 23, 2001
For: SYSTEM AND METHOD FOR
MANAGING USER-SPECIFIC DATA

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 17, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request 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
4/18/05

cc: Zvetan Dragulev
Tingo, Inc.
27 Pinewood Ct.
San Mateo, CA 94403



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

#9

Douglas L. Wathen
Gifford, Krass, Groh
Suite 400
280 N. Old Woodward Ave.
Birmingham, MI 48009

MAILED

Paper No. 9

OCT 10 2002

Office of the Director
Group 3600

In re Application of	:	
Frank Venegas, Jr.	:	
Application No. 09/815,628	:	DECISION ON PETITION TO
Filed: March 23, 2001	:	REVIEW RESTRICTION
Attorney Docket No. 11605/14	:	REQUIREMENT UNDER
For: Hand Rail System	:	37 CFR 1.144

This a decision on the petition received September 6, 2002, to have claims 5-21 examined, which will be treated as a Petition to the Commissioner under 37 CFR 1.144 to review the restriction requirement.

The Petition is **DENIED**.

A careful review has been made of the various points raised by petitioner with respect to the election requirement. No clear error has been found in the election requirement to warrant withdrawal of the action.

On June 10, 2002, an election of species requirement, Paper No. 5, was mailed to petitioner. Petitioner responded to the election of species requirement in Paper No. 6, filed July 2, 2002. In his response, petitioner elected Species 2 and traversed the requirement stating "Applicant believes species 2, 3, and 4 should be combined, as they all have in common an infill panel, regardless of their construction". The examiner reviewed petitioner's argument, determined it was not persuasive, and made the election requirement final in the Office action, Paper No.7, mailed August 1, 2002.

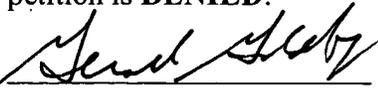
In the election of species requirement, Paper No. 5, the examiner identified five species as corresponding to the embodiments of figures 1-4, 5-8, 9-13, 14-22, and 23, respectively. In response to petitioner's traversal of the requirement, the examiner identified the following mutually exclusive features of species 2, 3, and 4: the slip-on fitting and U-shaped channels of species 2; the clips of species 3; and the slip-in fitting of species 4.

The examiner followed a standard method of identifying species, by identifying figures, and followed a standard method of demonstrating the restrictability, by describing mutually exclusive features. See MPEP § 806.04(f). Petitioner, on the other hand, has failed to point out the errors

in the election requirement. Petitioner has merely alleged that species 2, 3, and 4 are not patentably distinct, without providing any evidence in support of his position.

Petitioner, in the instant petition, has further alleged "There is sufficient similarity between these embodiments to allow the Examiner to perform a search without undue burden". Petitioner is reminded that there is no requirement for a burdensome search when election of species is required. See MPEP § 808.01(a). Accordingly, Petitioner's argument is not persuasive.

For the forgoing reasons, the examiner's election of species requirement was clearly proper. The petition is **DENIED**.



Gerald Goldberg
Director
Patent Technology Center 3600


LB 9/30/02



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCOTT H. JAEGER
400 CLEVELAND BOULEVARD
HADDONFIELD NJ 08033

COPY MAILED

JAN 16 2009

In re Application of :
Scott H. Jaeger et al. :
Application No. 09/815,646 : **ON PETITION**
Filed: March 23, 2001 :
Attorney Docket No. 11506/3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the nonfinal rejection mailed October 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) above.

The drawings submitted with the petition on November 10, 2008 and supplemented on November 12, 2008, are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.21(d).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.



Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCOTT H. JAEGER
400 CLEVELAND BOULEVARD
HADDONFIELD NJ 08033

MAILED

APR 08 2009

OFFICE OF PETITIONS

In re Application of :
Scott H. Jaeger et al :
Application No. 09/815,646 : **DECISION ON PETITION**
Filed: March 23, 2001 :
Attorney Docket No. 11506/3 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed October 17, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3626 for appropriate action by the Examiner in the normal course of business on the reply received March 16, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 16

CIBA VISION CORPORATION
ATTN: RICHARD GEARHART
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

COPY MAILED

MAY 20 2004

OFFICE OF PETITIONS

In re Application of :
Muller et al. :
Application No. 09/815,674 :
Filed: March 23, 2001 :
Attorney Docket No. CL/V-31362A :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 22, 2003. A Notice of Abandonment was mailed on March 23, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950.00 extension of time fee submitted with the petition on May 10, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



MAILED

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

APR 01 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of	:	
George Harry Hoffman et al.	:	DECISION ON PETITION
Application No. 09/815,688	:	TO WITHDRAW THE
Filed: March 23, 2001	:	HOLDING OF ABANDONMENT
For: SYSTEM, METHOD AND COMPUTER	:	
PROGRAM PRODUCT FOR A CONVICIENCE	:	
STORE SUPPLY CHAIN MANAGEMENT FRAMEWORK	:	

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on February 23, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

- Postcard receipt being dated January 29, 2004.
- USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.
- Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).
- Hand Delivery Receipt of the specific documents submitted dated _____.
- Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.
- Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/mjz: 3/29/04



 STEVEN N. MEYERS
 SPECIAL PROGRAM EXAMINER
 TECHNOLOGY CENTER 3600

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)
6545953	2003-04-08	09815710	2001-03-23	

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Lawrence Herbert/	Date (YYYY-MM-DD)	2008-10-10
Name	Lawrence Herbert		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6545953 :
Issue Date: April 8,2003 :
Application No. 09815710 :DECISION GRANTING PETITION
Filed: March 23,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 00-0929 :

This is a decision on the electronic petition, filed October 9,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 9,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Toby H. Kusmer
McDermott, Will & Emery
28 State Street
Boston, MA 02109

COPY MAILED

DEC 22 2004

In re Application of :
John Kroeker, et al. :
Application No. 09/815,726 :
Filed: March 23, 2001 :
Attorney Docket No. ELZK-004 :

OFFICE OF PETITIONS

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

It is noted that petitioner submitted an extension of time with the present petition. Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute.

Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the extension fees submitted with the present petition are being credited to counsel's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 1761, 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



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

Thomas Jefferson Bush III
4220 Carrollton Avenue
Indianapolis, IN 46205

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FEB 14 2003

OFFICE OF PETITIONS

In re Application of
T. J. Bush III
Application No. 09/815,794
Filed: March 23, 2001
Attorney Docket No. N/A

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within a timely manner to the nonfinal Office action mailed May 7, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 8, 2002.

This application is being forwarded to Technology Center AU 3743.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



THOMAS J. BUSH III
2022 TAFT STREET
GARY, IN 46404

COPY MAILED

FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
BUSH	:	
Application No. 09/815,794	:	ON PETITION
Filed: March 23, 2001	:	
Attorney Docket No. (None)	:	

This is a decision on the petition under 37 CFR 1.137(a), filed July 12, 2005, 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(d).

A petition based on 37 CFR 1.137(a) requires a \$250 petition fee for consideration. The petition filed on July 12, 2005 included funds of \$55. When petitioner remits \$195 (the difference between \$250 and \$55), the petition will be considered on its merits.

Additionally, a required reply for purposes of item (1) above should be one of the options listed in MPEP 711.03(c)II.A.2(b). A courtesy copy of this portion of the MPEP has been enclosed with this decision.

¹ The Office received a reply to the final rejection on April 9, 2004. In response, the Examiner stated in an Advisory Action that claims 1 through 4 remained rejected. See Boxes 2,7 and 10 of the Advisory Action. Thus, the amendment did not cancel the rejected claims or otherwise *prima facie* place the application in condition for allowance.

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 decision should be directed to Denise Pothier at (571) 272-4787.



Frances Hicks
Petitions Examiner
Office of Petitions

enc: MPEP 711.03(c)II.A.2(b); pages 700-171-173

visions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR 1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR 1.137(a) or (b) (discussed below).

II. PETITIONS TO REVIVE AN ABANDONED APPLICATION, OR ACCEPT LATE PAYMENT OF ISSUE FEE

37 CFR 1.137 provides for the revival of abandoned applications and lapsed patents for the failure:

(A) to timely reply to an Office requirement in a provisional application;

(B) to timely prosecute in a nonprovisional application;

(C) to timely pay the issue fee for a design application;

(D) to timely pay the issue fee for a utility or plant application; and

(E) to timely pay any outstanding balance of the issue fee (lapsed patents).

A petition under 37 CFR 1.137(a) requires:

(A) the required reply, unless previously filed;

(B) the petition fee as set forth in 37 CFR 1.17(l);

(C) a showing to the satisfaction of the Director of the USPTO that 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

A petition under 37 CFR 1.137(b) requires:

(A) the required reply, unless previously filed;

(B) the petition fee as set forth in 37 CFR 1.17(m);

(C) 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

The Director of the USPTO may require additional information where there is a question whether the delay was unintentional.

A. Reply Requirement

Unlike a petition to withdraw the holding of abandonment, a petition to revive under 37 CFR 1.137 must be accompanied by, *inter alia*, the required reply. See *Ex parte Richardson*, 1906 Dec. Comm'r Pat. 83 (1905) ("This Office has no authority to revive a case upon which no action has been taken within [the period for reply], but merely has authority to determine after an action is taken whether the delay in presenting it was unavoidable."). Generally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed. A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply.

37 CFR 1.137(c) applies to the reply requirement for petitions under 37 CFR 1.137(a) and (b). 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 (RCE) in compliance with 37 CFR 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 include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. See below for more details on the reply requirement in specific situations of abandonment.

1. Abandonment for Failure To Pay the Issue Fee or Publication Fee

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR

1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See *Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee “is submitted ... and the delay in payment is shown to have been unavoidable.” 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an “unintentionally delayed payment of the fee for issuing each patent.” Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See *In re Mills*, 12 USPQ2d 1847, 1848 (Comm’r Pat. 1989). The phrase “for failure to pay the issue fee or any portion thereof” applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

2. Abandonment for Failure To Reply in a Nonprovisional Application

(a) Abandonment for Failure To Reply to a Non-Final Action

The required reply to a non-final action in a non-provisional application abandoned for failure to prosecute may be either:

(A) an argument or an amendment under 37 CFR 1.111;

(B) the filing of a continuing application under 37 CFR 1.53(b) (or a continued prosecution application (CPA) under 37 CFR 1.53(d) if the application is a design application).

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(b) Abandonment for Failure To Reply to a Final Action

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;

(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for

utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

An application subject to a final action in which a proposed amendment under 37 CFR 1.116 is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC) to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application. The examiner is instructed that if the reply places the application in condition for allowance, the examiner should write in the margin of the reply "OK to enter upon revival." For Image File Wrapper (IFW) processing, see IFW Manual. If the petition is otherwise grantable and the examiner indicates that the reply places the application in condition for allowance, the petition will be granted. If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. Form PTOL-303 should not be mailed to the applicant by the examiner. In this situation, the Office of Petitions will not grant the petition. A copy of the form PTOL-303 is marked with the notation "Courtesy Copy" by the Office of Petitions. The courtesy copy is sent as an attachment with the decision on the petition. The advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection. For Image File Wrapper (IFW) processing, see IFW Manual.

(c) Abandonment for Failure To File an Appeal Brief

In those situations where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;

(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

(C) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

(d) Filing an RCE as the Required Reply

For utility or plant applications abandoned for failure to reply to a final Office action or for failure to file an appeal brief, the required reply may be the filing of an RCE accompanied by a submission and the requisite fee. When an RCE is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) to revive such an application, the submission accompanying the RCE must be a reply responsive within the meaning of 37 CFR 1.111 to the last Office action. Consideration of whether the submission is responsive within the meaning of 37 CFR 1.111 to the last Office action is done without factoring in the "final" status of such action. The submission may be a previously filed amendment after final or a statement that incorporates by reference the arguments in a previously filed appeal or reply brief. See MPEP § 706.07(h), paragraph II.

The petition may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If the applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(e) A Continuing Application or RCE May Be Required by the Office

The Office may require the filing of a continuing application or an RCE (if the prosecution prior to abandonment was closed) (or request for further examination pursuant to 37 CFR 1.129(a)) to



THOMAS J. BUSH, III
2022 TAFT STREET
GARY, IN 46404

COPY MAILED

JUL 05 2006

OFFICE OF PETITIONS

In re Application of	:	
BUSH	:	
Application No. 09/815,794	:	ON PETITION
Filed: March 23, 2001	:	
Attorney Docket No. (None)	:	

This is a decision on a renewed petition under 37 CFR 1.137(a), filed April 6, 2005 and supplemented April 25, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to file a timely reply within the meaning of 37 CFR 1.113 to the final Office action of November 26, 2003, which set a shortened period for reply of 3 months. As the replies filed March 2, 2004 and April 9, 2004 had no extensions of time fee¹, this application became abandoned at midnight on February 26, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

As for requirement (3), Petitioner ("Bush") appears to contend in the original (July 12, 2005) and the renewed petitions (April 6 and 25, 2006) that a timely and proper reply to the final rejection of November 26, 2003 was submitted to the Office and that the abandoned status of the above-identified application is improper. Bush also argues the delay in responding to the final rejection was unavoidable because of his health and his financial condition.

¹ The examiner had no procedural authority with respect to this abandoned application on or after February 27, 2004. *Lorenz v. Finkl*, 333 F.2d 885, 891 142 USPQ 26, 30 (CCPA 1964). It follows that an Advisory Action should not have been mailed on July 21, 2004 since the examiner was without authority.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of the mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting *Pratt*, 1887 Dec. Comm'r Pat. 31, 3233 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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).

A review of the record makes it immediately apparent that Petitioner is not well versed in patent practice and procedure. Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper reply, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. In the present situation, the record reflects that Bush made several attempts to file an amendment after final action with the Office in response to the November 26, 2003 final action. The first submission on February 7, 2004 was returned to Bush in a letter dated February 23, 2004. Bush also admits in an April 9, 2004 submission to the Office that the correspondence of February 7, 2004 failed to identify Application No. 09/815,794

and was returned.² The resubmitted amendment was filed on March 2, 2004 (often referred to by Bush as the February 27, 2004 response), which was outside of the three-month period set forth in the November 26, 2003 final action and required an extension of time fee for one month.³ As stated above, no fee was submitted with the response. Yet another amendment was filed on April 9, 2004,⁴ which did not include but required an extension of time fee for two months. As such, the responses filed with the Office after final action were not timely.

While the examiner had no procedural authority to act on the application on or after February 27, 2004 since it was abandoned, the Advisory Action mailed July 21, 2004 also indicated that the amendment(s) did not place the application in condition for allowance. A proper reply under 37 CFR 1.113 to the final action must have included one of the following: (a) a Notice of Appeal and appeal fee; (B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance; (C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114; or (D) the filing of a continuing application under 37 CFR 1.53(b). Bush did not submit one of the above-provided proper replies within the period set in the final action or within the six-month statutory period along with any necessary extension of time fees. The application, therefore, properly went abandoned.

Likewise, as a “reasonably prudent person” would file papers or fees in compliance with 37 CFR 1.8 or 1.10⁵ to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant’s failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute “unavoidable” delay. *See Krahn v. Commissioner*, 15 USPQ2d 1823, 1825, (E.D. Va 1990); see also MPEP 711.03(c)(III)(C)(2). Bush’s responses (e.g., the February 9, 2004, the March 2, 2004, and the April 9, 2004 responses) did not include any certification and thus did not get the benefits of any paper filed in compliance with 37 CFR 1.8 and 1.10.

Finally, a delay caused by an applicant’s lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered “unavoidable” due to: (A) the applicant’s reliance upon oral advice from USPTO employees; or (B) the USPTO’s failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See*

² This procedure is consistent with 37 CFR 1.5, which states that correspondence “must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 09/815,794), or the serial number and filing date assigned to that application by the Patent and Trademark Office[.]” 37 CFR 1.5 further states “[a]ny correspondence not containing such identification will be returned to the sender where a return address is available.”

³ 37 CFR 1.136(a) allows Applicants to buy an extension of time up to the maximum extendable period set by statute. 35 U.S.C. 133 gives applicants six-months to respond to a final action.

⁴ Applicant makes reference to a March 9, 2004 submission in the April 6, 2006 petition. However, no March 9, 2004 submission has been located. It is believed that Applicant meant to refer to the April 9, 2004 submission.

⁵ A certificate of mailing permits Applicants to certify that the correspondence was “[a]ddressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail.” A certificate of transmission permits Applicants to certify that the correspondence was “[t]ransmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d).”

In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Therefore, any delay caused by the failure of the Office to advise Bush on the status of the after-final amendment until the mailing of the Advisory Action on July 21, 2004, which fell outside of the six-month period for reply set forth by 35 USC 133, will not be considered unavoidable. Additionally, any delay resulting from Applicant failing to be notified that an extension of time fee was due with the March 2, 2004 or the April 9, 2004 responses, will not be considered unavoidable for purposes of 37 CFR 1.137(a).

With respect to applicant's health, Petitioner asserts incapacitation (his disability) as a cause of the delay. A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (e.g., correspond with the Office) during the period between November 26, 2003 and May 26, 2004. A statement from petitioner's treating physician must support such a showing, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. Bush appears to have provided evidence that he underwent surgery for a herniated disk (microlumbar discectomy) in July, 2003, but no documentation from his treating physician providing the nature and degree of Bush's incapacitation during the above-mentioned period has been provided. Even more importantly as evidenced by the filings in February, March and April of 2004, Bush had the ability to file various responses to the November 26, 2003 final action, and his "incapacitation" did not prevent him from conducting business with the Office. The present facts do not demonstrate that Bush's health problems caused the response to the final action to be "unavoidably" delayed within the meaning of 35 USC 41(c)(1).

With respect to applicant's financial situation, Petitioner asserts that he is "very poverty stricken." A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay. See *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). The present showing of record does not adequately establish that petitioner's entire delay in responding to a final action was unavoidable within the meaning of 37 CFR 1.137(a). Prior to February 27, 2004, Bush had the option to submit a timely reply to the November 26, 2003 final action without any fee. For this period, any argument of unavoidable delay in filing an amendment to the final action based on his financial condition is not relevant. During the period from February 27, 2004 through May 26, 2004, Bush has not demonstrated that petitioner was unable to pay the extension of time fee due with the March 2, 2004 or the April 9, 2004 submission or to pay any fees associated with the filing of a continuing application, a request for continued examination or a notice of appeal along with any necessary extensions of time. As such, Bush has not shown to the satisfaction of the Director that the entire delay in responding to the November 26, 2003 final action for purposes of 37 CFR 1.137(a) was unavoidable.

Also while resources would have been necessary to employ the assistance of counsel in continuing the prosecution of the above-identified application, persons seeking patent rights have no "right" to the assistance of counsel during the application process. *Boyden v. Commissioner of Patents*, 441 F.2d 1041, 168 USPQ 680 (D.C. Cir. 1971). As patent applications are commonly prosecuted *pro se*, arguments that the financial inability to employ counsel to aid in

the prosecution of an application rendered the abandonment of the application “unavoidable” are unpersuasive. That is, while applicants may obtain the services of counsel to assist in the application process, such counsel is not strictly necessary, and, as such, the financial inability to employ such counsel does not render a delay in providing a required response “unavoidable.”

If petitioner decides to pursue demonstrating that the delay in timely filing a response to the November 26, 2003 final action was unavoidable based on financial difficulties, a complete showing of the financial condition of petitioner, with supporting documentation, is required. Such showing should include all income, expenses, assets, credit, and obligations, which made the delay from November 26, 2003, until the filing of the original petition on July 12, 2005, “unavoidable.” A monthly breakdown is preferred. In essence, petitioner must show that he was aware of the need to file a proper response to the final action, but when any fees came due, was financially unable to make the payment throughout the period in question until the petition was filed.

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. Please be advised that the decision on petition, however, will be rendered only the information provided. 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).

If Petitioner decides to pursue the petition process, Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the \$ 750 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).

If petitioner elects not to pursue the petition process, the notice of appeal fee (\$250) will be refunded upon request.

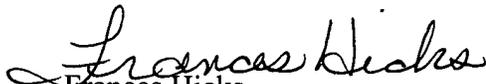
Further correspondence with respect to this matter should be addressed as follows:

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 decision should be directed to Denise Pothier at (571) 272-4787


Frances Hicks
Petitions Examiner
Office of Petitions



MAIL

Paper No. 7

OCT 21 2003

CHOATE, HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of
Neil HICKEY
Application No. 09/815,805
Filed: March 23, 2001
For: SYSTEM FOR AND METHOD OF
AUTOMATICALLY MIGRATING DATA
AMONG MULTIPLE LEGACY
APPLICATIONS AND ACCESSIBLE

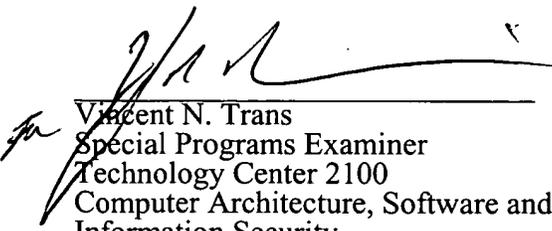
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DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY
:
:

This is a decision on the Request To Withdraw from Representation filed September 29, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the U.S. Patent and Trademark Office (Office) *will continue to be directed* to the above-listed until otherwise notified. 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, Software and
Information Security
(703) 305-9750



MAILED

JUN 22 2004

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of	:	DECISION ON PETITION
Brian E. Barth et al.	:	TO MAKE SPECIAL
Application No. 09/815,836	:	(INFRINGEMENT)
Filed: March 22 2001	:	
For: METHOD AND APPARATUS FOR	:	
DYNAMIC INFORMATION CONNECTION	:	
ENGINE	:	

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 4, 2004 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 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 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 March 4, 2004 lacks requirement 2(A) above. In view of this deficiency, the petition is **DISMISSED**.

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 petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 6/15/04



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**HARRIS ZIMMERMAN
LAW OFFICES OF HARRIS ZIMMERMAN
1330 BROADWAY, SUITE 710
OAKLAND, CA 94612-2506**

COPY MAILED

DEC 20 2006

OFFICE OF PETITIONS

In re Application of :
Icho, Robert :
Application No. 09/815,838 :
Filed: March 22, 2001 :
Attorney Docket No. 4168 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 1, 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 Appeal Brief with fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 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



ST-ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD, CT 06905

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Roger LACASSE, et al :
Application No. 09/815,857 :
Filed: March 23, 2001 :
Attorney Docket No. 01393-P0047A :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 3, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See *DH Technology v. Synergystex International, Inc.* 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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 Diane Goodwyn at (571) 272-6735.


Thurman K. Page
Petitions Examiner
Office of Petitions



FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Steven G. Roskowski, Dean M. Drako :
and William T. Krein :
Application No. 09/815,873 :
Filed: March 22, 2001 :
Title: SYSTEM FOR RECEIVING A :
CONTROL SIGNAL FROM A DEVICE FOR :
SELECTING ITS ASSOCIATED CLOCK :
SIGNAL FOR CONTROLLING THE :
TRANSFERRING OF INFORMATION VIA :
A BUFFER :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 13, 2006 (Certificate of Mailing date: January 10, 2006), which has been treated as a petition under 37 CFR 1.183.¹

The petition is dismissed.

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183," 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).

On August 11, 2005, a non-final Office action was mailed requiring the submission of a supplemental re-issue oath or declaration.

¹ Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.

In response, on January 13, 2006 (Certificate of Mailing date: January 10, 2006), the instant petition and a two (2) month extension of time were filed.

Applicant appears to demonstrate that the non-signing inventors were only presented with the declaration. Unless the non-signing inventors were presented with a copy of the application papers (specification, claims and drawings), the non-signing inventors could not attest that they have "reviewed and understand the application papers" and therefore could not sign the supplemental declaration which they were given. Accordingly, applicant failed to show or provide proof that the inventors have refused to sign the declaration. Applicant should show that a copy of the application papers was presented to the non-signing inventors, but that they did not respond to, or refused, the request that they sign the oath/declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of :
Steven G. Roskowski, Dean M. Drako :
and William T. Krein :
Application No. 09/815,873 :
Filed: March 22, 2001 :
For: SYSTEM FOR RECEIVING A :
CONTROL SIGNAL FROM A DEVICE FOR :
SELECTING ITS ASSOCIATED CLOCK :
SIGNAL FOR CONTROLLING THE :
TRANSFERRING OF INFORMATION VIA :
A BUFFER :

DECISION GRANTING PETITION
UNDER 37 CFR 1.183

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 28, 2006, which has been treated as a request for reconsideration of petition under 37 CFR 1.183.¹

The petition is **granted**.

Petitioner has shown that inventors Steven G. Roskowski and William T. Krein have refused to sign the supplemental declaration. The requirement for those inventors to sign the supplemental declaration is hereby suspended or waived in accordance with 37 CFR 1.183.

The file is being forwarded to Technology Center 2100 for further examination *in due course*.

¹ Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.

Telephone inquiries regarding this decision should be directed to the undersigned at
(571) 272-3228.

A handwritten signature in black ink, appearing to read 'Edward J. Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

Manatt Phelps & Phillips
11355 West Olympic Boulevard
Los Angeles, CA 90064

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FEB 14 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Karapet Ablabutyanyan :
Application No. 09/815,878 :
Filed: March 22, 2001 :
Attorney Docket :
No. 17793.00600 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 18, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 19, 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 3652 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING
2
PALO ALTO CA 94304

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DEC 20 2005

OFFICE OF PETITIONS

In re Application of

Karapet Ablabutyán, et al. :

Application No. 09/815,878

: DECISION ON PETITION

Filed: March 22, 2001

Attorney Docket No. 17793.00600

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 9, 2005, 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 May 10, 2005.

The amendment filed October 5, 2005, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3652 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
J. Spencer Grant, et. al. :
Application No. 09/815,885 :
Filed: March 23, 2001 :
Attorney Docket No. 9437.11 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed September 18, 2001. A Notice of Abandonment was mailed on May 27, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES 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.

LEMAIRE PATENT LAW FIRM, PLLC
P.O. BOX 11358
ST. PAUL, MN 55111

COPY MAILED

OCT 05 2004

OFFICE OF PETITIONS

In re Application of:	:	
Mark L. Jenson	:	
Application No. 09/815,919	:	DECISION ON
Filed: March 23, 2001	:	PETITION
Title of Invention:	:	
LOW-TEMPERATURE FABRICATION OF	:	
THIN-FILM ENERGY-STORAGE DEVICES	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

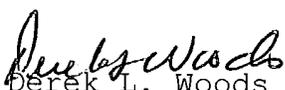
The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed February 24, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 25, 2004. A Notice of Abandonment was mailed on September 9, 2004.

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, and a submission in the form of an Amendment.

Accordingly, the petition is **granted**.

AN electronic message is being transmitted to Technology Center 1746 to process the RCE and Amendment.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Petitions Attorney
Office of Petitions



Paper No. 19

DELTAGEN INC
740 BAY ROAD
REDWOOD CITY, CA 94063

COPY MAILED

SEP 26 2003

In re Application of	:	OFFICE OF PETITIONS
Keith D. Allen et al	:	
Application No. 09/815,937	:	ON PETITION
Filed: March 22, 2001	:	
Attorney Docket No. R-611	:	

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 5, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 6, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), on September 15, 2003, the Office of Finance attempted to withdraw the money from Deposit Account No. 50-1271. Unfortunately, there were insufficient funds in the Deposit Account.

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.

Further correspondence with respect to this matter should be addressed as follows:

- By mail:** Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

- By hand:** Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

- By fax:** (703) 308-6916
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.



Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KELLY L. QUAST
1031 BING STREET
SAN CARLOS, CA 94070



Paper No. 23

**DELTAGEN INC
1031 BING STREET
SAN CARLOS, CA 94070**

COPY MAILED

NOV 05 2003

OFFICE OF PETITIONS

In re Application of
Keith D. Allen et al
Application No. 09/815,937
Filed: March 22, 2001
Attorney Docket No. R-716

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 27, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1636.

Wan Laymon
Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

And Attachment



#14
DW

MAY 21 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

MAY 21 2004

OFFICE OF THE DIRECTOR
TC 3600

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313

In re Application of :
James Adams : **DECISION ON PETITION**
Application No. 09/815,946 : **TO WITHDRAW THE**
Filed: March 23, 2001 : **HOLDING OF ABANDONMENT**
For: TIE DOWN COUPLING SYSTEM

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on August 18, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated December 16, 2002 and a Notice to that effect was mailed on July 21, 2003.

Petitioner states that a response was filed on March 17, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated March 17, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Further, the copy of the facsimile confirmation/transmittal page having the March 17, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 5/19/04



#16
DW

SEP 27 2004

Hahn Loeser & Parks, LLP
Twin Oaks Estate
1225 W. Market Street
Akron, OH 44313

MAILED
SEP 27 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of
James H. Adams
Application No. 09/815,946
Filed: March 23, 2001
For: TIE DOWN COUPLING SYSTEM

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 16, 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 March 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.

SNM/vdb:9/21/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600



UNITED STATES 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

FAY, SHARPE, FAGAN, MINNICH & MCKEE
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
James H. Adams :
Application No. 09/815,946 : DECISION GRANTING PETITION
Filed: March 23, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ESTZ 2 00003 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 16, 2002, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, this fee is unnecessary and will **not** be charged to a deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being forwarded to Technology Center AU 3612.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-8-05

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 10855274

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, return to employee (named below) via PUBSCofC Team in **MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should this be Approved
Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

The change to column 7, line 36 should not be entered, since it appears that CpD is correct and it is not clear what CEd would refer to, and may introduce new matter.

[Signature]
SPE

1712

Art Unit

ITW

Attorney's Docket No. **6418**

PATENT

I hereby certify that this paper or fee is being deposited with the United States Postal Service in a First Class Mail envelope addressed to: Attn: Certificate of Correction Branch, Commissioner for Patents; P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.



Dated May, 2005

Reinhart Boerner Van Deuren s.c.

BY: Antonia M. Holland
Antonia M. Holland

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: US 6,855,274 B1

Issued: February 15, 2005

Name of Patentee: Northwestern University

Title of Invention: **LAYER BY LAYER SELF-ASSEMBLY OF LARGE RESPONSE MOLECULAR ELECTRTO-OPTIC MATERIALS BY A DESILYLATION STRATEGY**

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR 1.322(a))

1. Attached is Form PTO-1050, suitable for printing.

NOTE: Form PTO-1050, using the column and line number in the printed patent, should be used exclusively regardless of the length or complexity of the subject matter. MPEP § 1485.

NOTE: The patent grant should be retained by the patentee. The PTO does not attach the certificate of correction to the patentee's copy of the patent. The patent grant will be returned to the patentee if submitted. MPEP § 1485.

2. The exact page and line number where the errors are shown in the application file are:

NOTE: This information should be identified in this request, however, on Form PTO-1050, only the column and line number in the printed patent should be used. MPEP § 1485.

The issued patent at Col. 4, Line 22 should be corrected to correspond to the patent application at Page 7, Line 3.

The issued patent at Col. 5, Line 9 should be corrected to correspond to the patent application at Page 8, Line 19.

The issued patent at Col. 7, Line 36 should be corrected to correspond to the patent application at Page 13, Line 3.

The issued patent at Col. 8, Line 24 should be corrected to correspond to the patent application at Page 14, Line 18.

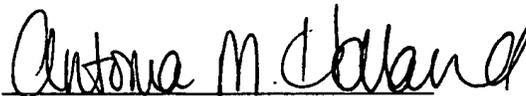
The issued patent at Col. 9, Line 57 should be corrected to correspond to the patent application at Page 17, Line 8.

The issued patent at Col. 10, Line 12 should be corrected to correspond to the patent application at Page 17, Line 23.

3. Please send the Certificate to:

Name: Antonia M. Holland
Address: Reinhart Boerner Van Deuren s.c.,
1000 North Water Street, Suite 2100
P.O. Box 2965
Milwaukee, WI 53201-2965

Respectfully submitted,



Antonia M. Holland
Reg. No. 53,840

Reinhart Boerner Van Deuren s.c.,
1000 North Water Street, Suite 2100
P.O. Box 2965
Milwaukee, WI 53201-2965
Customer No.: 22922

NOTE: "A certificate of correction, under 35 U.S.C. 254, may be issued at the request of the patentee or [the patentee's] assignee." 37 CFR 1.322(a). The certificate of correction can be signed by the attorney of record who acts on behalf of the inventor(s) or assignee(s).

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : US 6,855,274 B1

ISSUED: February 15, 2005

INVENTOR(S) : Tobin J. Marks, Milko E. van der Boom

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 4, Line 22: "directed" should be deleted --.

Column 5, Line 9: "unction" should be -- function --.

Column 7, Line 36: "Cpd" should be -- C[d --. ←

Column 8, Line 24: "34 M" should be -- 34mM --.

Column 9, Line 57: "1 =" should be -- / = --.

Column 10, Line 12: "1 of" should be -- / of --.

MAILING ADDRESS OF SENDER: Antonia M. Holland – Reg. 53,840
Reinhart Boerner Van Deuren s.c.
1000 N. Water Street, Suite 2100
Milwaukee, WI 53202

PATENT NO. US 6,855,274

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attn Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

No. of additional
copies



Paper No. 10

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

COPY MAILED

APR 02 2003

In re Application of
Compaan, et al.
Application No. 09/815,958
Filed: March 23, 2001
Attorney Docket No. 1-22335

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed March 28, 2003. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on September 20, 2002, after no reply was received to the non-final Office action, June 19, 2002, which set a three-month shortened statutory period for reply. Petitioner filed the instant petition on March 28, 2003, and therein argued that the Office action of June 19, 2002, was never received. In support of the instant petition, petitioner filed: 1) a recitation of facts as offered by Ted Gillespie, and 2) a copy of the results of a docket search conducted for the relevant period.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has meet the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

Petitioner is advised that there is no petition fee associated with a petition to withdraw a holding of abandonment filed under 37 CFR § 1.181(a). Accordingly, the petition fee remitted on March 10, 2003, in the amount of \$55.00 will be refunded to petitioner and credited to Deposit Account 13-0005.

Petitioner is advised that the above-cited application will be forwarded to Technology Center 2800 for review of the amendment filed March 28, 2003.

In re Application of Compaan, et al.
09/815,958

Page 2

Telephone inquiries concerning this decision 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
www.uspto.gov

MacMILLAN SOBANSKI & TODD LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

COPY MAILED

JUN 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,852,614 :
Issue Date: February 8, 2005 :
Application No. 09/815,958 : ON PETITION
Filed: March 23, 2001 :
Attorney Docket No. 1-22335 :

This is a decision on the petition filed March 10, 2005, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ See Official Gazette of June 22, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OCT 17 2003

Paper No. 18

In re Application of :
John E. Wilson : DECISION ON PETITION
Application No. 09/815,962 :
Filed: March 23, 2001 :
Attorney Docket No. 14460/04023 :

This is a decision on the petition filed on August 8, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office letter dated December 31, 2002. The duplicate petition filed by facsimile transmission on September 29, 2003 has been discarded. See 37 CFR 1.4(b). The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on March 10, 2003, within the time for reply set by the Office letter in question. From this evidence, it becomes clear that this application is 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 10, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR - 8 2004

HELLER EHRMAN WHITE & MCAULIFFE LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122-1246

In re application of Gary Dejong et al. :
Serial No. : 09/815,981 : DECISION ON PETITION
Filed : March 22, 2001 :
Attorney Docket No.: 24601-416B :

This is in response to applicant's petition, filed November 18, 2003 under 37 CFR 1.181, to withdraw the finality of the Office action mailed September 30, 2003.

BACKGROUND

Review of the file history shows that the application was filed March 22, 2001 under 35 U.S.C. 111(a). On December 16, 2002 the examiner mailed a first Office action on the merits, wherein claims 1-16 and 30 were rejected. Applicants filed a response, including amendments to the claims, on June 16, 2003. On September 30, 2003 the examiner mailed an Office action which included new grounds of rejection for claims 4, 14 and 15. The examiner made the action final, stating that the new grounds of rejection were not previously rejected because of a typographical error.

DISCUSSION

The claims at issue are claims 4, 14 and 15, which all depend on claim 1. In the first Office action, claims 1, 4, 14 and 15 were rejected under 35 U.S.C. 102(b) over each of Felgner et al., Neves et al. and Zelphati et al. Claims 1-3 and 11-13 were rejected under 35 U.S.C. 103 over either one of Felgner et al. or Zelphati et al.; taken in view of Nolan et al. In the rejection, the examiner stated, "Felgner et al. and Zelphati et al. teach all of the limitations of the method according to claim 1. Felgner et al. and Zelphati et al. do not, however, teach the method wherein the transferred DNA is a large DNA or chromosome." In the response filed June 16, 2003 claim 1 was amended to read, "introducing labelled large nucleic acid molecules." In the final Office action, the rejections under 35 U.S.C. 102(b) were withdrawn and claims 4, 14 and 15 were added to the rejection under 35 U.S.C. 103. These changes were clearly necessitated by applicants' amendment which overcame the rejections under 35 U.S.C. 102(b).

Applicants argue that claims 4, 14 and 15 have not been amended. This argument is not persuasive. As stated in 37 CFR 1.75(c), "Claims in dependent form shall be construed

to include all the limitations of the claim incorporated by reference into the dependent claim.” Thus the amendment to claim 1 effectively amended claims 4, 14 and 15, as well.

Applicants argue that the rejection of claims 4, 14 and 15 could have been advanced in the previous Office action. This argument is not persuasive. While the rejection *could* have been made, examiners are admonished not to cite unnecessary references. MPEP 904.03 states, in part:

In selecting the references to be cited, the examiner should carefully compare the references with one another and with the applicant's disclosure to avoid the citation of an unnecessary number. The examiner is not called upon to cite all references that may be available, but only the "best."

Since three different 102(b) references (statutory bars) were cited in the first action, there was no reason to add an additional obviousness rejection including the Nolan reference. Once the claims were amended, the new ground of rejection became necessary.

It is unfortunate that the examiner indicated that a typographical error had been made, since this does not appear to have been the case at all. It does not appear that any error was made in rejecting the claims in either Office action.

DECISION

Applicant's petition is **DENIED**.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.



John Doll
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/04/05

TO SPE OF : ART UNIT **1636**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/815981 6936469

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.



Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 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 changes Made in the claims were present
in the claim set allowed (claims filed 10/13/05).



SPE

1636

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.

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

MAR 07 2006

OFFICE OF PETITIONS

Patent No. 6,936,469 : LETTER REGARDING
Issue Date: August 30, 2005 : PATENT TERM ADJUSTMENT
Application No. 09/815,981 : AND
Filed: March 22, 2001 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 24601-416B : CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT PURSUANT TO COMMENT 43 OF THE FINAL RULE" filed September 30, 2005. Pursuant to patentees' duty of good faith and candor to the Office, patentees indicate that the Patent Term Adjustment calculated by the Office may be longer than appropriate.

The request for reconsideration of patent term adjustment indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of zero (0) days.

On August 30, 2005, this application matured into U.S. Patent No. 6,936,469, with a revised patent term adjustment of 16 days. Patentees disclose that there may be more applicant delay than indicated regarding the Request for Continued Examination (RCE) filed on March 30, 2004 in response to the Final Rejection mailed September 30, 2003.

Patentees are correct. Pursuant to § 1.704(b)¹, the period of adjustment should have been reduced by 91 days for the period beginning on December 31, 2003, and ending on March 30, 2004.

In view thereof, the patent should have issued with a revised patent term adjustment of zero (0) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by zero (0) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

¹ A quick review of the application history reveals further bases for reduction. However, no further review of the calculations is necessary to conclude that the instant patent should have issued with a patent term adjustment of zero (0) days.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,936,469 B2
DATED : August 30, 2005
INVENTOR(S) : deJong 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 (16) days

Delete the phrase "by 16" and insert – by 0 days--



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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LEMAIRE PATENT LAW FIRM PLLC
P O BOX 11358
ST. PAUL, MN 55111

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Mark Lynn Jenson et al :
Application No. 09/815,983 : DECISION GRANTING PETITION
Filed: March 23, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1327.005US1 :

This is a decision on the petition, filed March 15, 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 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\815983.wpd

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: “The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. **Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).**”

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/11/07

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/815983** Patent No.: **7194801**

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

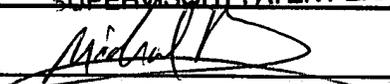
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

MICHAEL BARR
SUPERVISORY PATENT EXAMINER



SPE

1746

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. 18

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

COPY MAILED

NOV 22 2004

OFFICE OF PETITIONS

In re Patent of :
Scholler et al. :
Application No. 09/816,014 : DECISION
Filed: March 23, 2001 : ON PETITION
Title of Invention: :
PROCEDURE FOR THE CONTROL OF A :
RESPIRATOR DEVICE AS WELL AS :
APPARATUS FOR MONITORING :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed October 22, 2004.

The petition is granted.

The above-identified application became abandoned for failure to file an appeal brief. Applicant filed a Notice of Appeal on October 22, 2003. Thereafter, Applicant was given two months within which to file an Appeal Brief. See, 37 CFR 1.192. The failure to file the brief within the permissible time resulted in dismissal of the appeal. See MPEP § 1215.04. Since there were no allowed claims, the application became abandoned as of the date the brief was due, on December 22, 2003. A Notice of Abandonment was mailed on June 14, 2004¹.

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, and filed a submission in the form of an Amendment. Accordingly, the petition is granted.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney Advisor
Office of Petitions

¹ The Notice of Abandonment incorrectly stated the reason for abandonment of the application as Applicant's failure to reply to the final Office action, mailed April 22, 2003.



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

#8

Michele J. Young
Salter & Michaelson
321 South Main Street
Providence, RI 02903

MAILED

JAN 3 2003

Office of the Director
Group 3600

In re application of :
Betsy P. Colwell :
Application No. 09/816,016 :
Filed: March 23, 2001 :
For: SELECTIVE BIRD FEEDER :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's Petition To Withdraw Holding of Abandonment under 37 CFR 1.181(a) filed November 14, 2002. There is no fee required for this petition.

The petition is **DISMISSED as moot**.

A review of the application file reveals that a Notice of Abandonment mailed November 4, 2002 specified that the application had become abandoned because of applicant's failure to reply to the Office action of April 18, 2002. The applicant provides, along with the petition, a copy of the amendment that applicant argues was timely filed on October 18, 2002.

A further review reveals that the original copy of the amendment has since caught up with the file and is timely. Since a timely response to the Office action of April 18, 2002 has been filed, the abandonment is hereby withdrawn. Since the original of the amendment in question is now in the file, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment, return the application to pending status and enter the original amendment filed October 18, 2002 before forwarding to the examiner for treatment on the merits.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.



Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180
Facsimile No.: (703) 306-4597

SM: 12/21/02





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

#8

Michele J. Young
Salter & Michaelson
321 South Main Street
Providence, RI 02903

MAILED

JAN 3 2003

Office of the Director
Group 3600

In re application of :
Betsy P. Colwell :
Application No. 09/816,016 :
Filed: March 23, 2001 :
For: SELECTIVE BIRD FEEDER :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's Petition To Withdraw Holding of Abandonment under 37 CFR 1.181(a) filed November 14, 2002. There is no fee required for this petition.

The petition is **DISMISSED as moot**.

A review of the application file reveals that a Notice of Abandonment mailed November 4, 2002 specified that the application had become abandoned because of applicant's failure to reply to the Office action of April 18, 2002. The applicant provides, along with the petition, a copy of the amendment that applicant argues was timely filed on October 18, 2002.

A further review reveals that the original copy of the amendment has since caught up with the file and is timely. Since a timely response to the Office action of April 18, 2002 has been filed, the abandonment is hereby withdrawn. Since the original of the amendment in question is now in the file, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment, return the application to pending status and enter the original amendment filed October 18, 2002 before forwarding to the examiner for treatment on the merits.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.



Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180
Facsimile No.: (703) 306-4597

SM: 12/21/02





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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 02 2007

OFFICE OF PETITIONS

In re Application of :
Matsubara, et al. :
Application No. 09/816,067 :
Filed: March 22, 2001 :
Attorney Docket No. 16869B023900 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 14, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the final Office action mailed May 16, 2006, which set a shortened period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on August 17, 2006.

A grantable petition under 37 CFR 1.137(a)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

¹As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² 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.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”³

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”⁴

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁵

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.”⁶

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁷

³Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’ interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)

⁴Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

⁵Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

⁶Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁷Id.

The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”⁸ Nonawareness of a PTO rule will not constitute unavoidable delay.⁹

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the final Office action mailed May 16, 2006, was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner’s belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner’s argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* (MPEP) that requires the following:

[t]he showing requires to establish nonreceipt of an Office communication must include a statement from the fractioned 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 practioner’s statement.

The petition was not accompanied by the relevant docket records, notwithstanding the assertion in the petition to contrary. The renewed petition must be accompanied by the relevant docket records in order to be considered grantable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee (\$1500.00 for a large entity and \$750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date

⁸See *In re Mattulah*, 38 App. D.C. 497 (D.C. Cir. 1912).

⁹See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

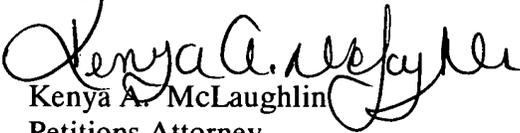
for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 11 2007
OFFICE OF PETITIONS

In re Application of :
Matsubara, et al. :
Application No. 09/816,067 :
Filed: March 22, 2001 :
Attorney Docket No. 16869B023900 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 10, 2007, to revive the above-identified application.

The renewed petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the final Office action mailed May 16, 2006, which set a shortened period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on August 17, 2006.

A grantable petition under 37 CFR 1.137(a)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

¹As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² 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.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (2).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”³

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”⁴

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁵

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.”⁶

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁷

³Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’ interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)

⁴Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

⁵Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

⁶Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁷Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"⁸ Nonawareness of a PTO rule will not constitute unavoidable delay.⁹

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the final Office action mailed May 16, 2006, was not received.

With regard to item (2) above, Examiner Daniel Ryman has determined that the amendment filed February 14, 2007, does not place the application in condition for allowance. In order for a renewed petition to be considered grantable, the renewed petition must be accompanied by a proper response to the final Office action mailed May 16, 2006. A proper response would be an amendment that places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal.

Petitioner is advised that the undersigned is satisfied that the delay in responding to the final Office action was unavoidable, however; 37 CFR 1.137(a) requires petitioner to provide a proper response to the last Office action in order to be considered grantable. The petition must be dismissed because Examiner Ryman has determined that the amendment of February 14, 2007, did not place the application in condition for allowance.

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

⁸See *In re Mattulah*, 38 App. D.C. 497 (D.C. Cir. 1912).

⁹See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222. Inquiries regarding the sufficiency of the amendment should be directed to Examiner Ryman.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of :
Matsubara, et al. :
Application No. 09/816,067 :
Filed: March 22, 2001 :
Attorney Docket No. 16869B023900 :

ON PETITION

This is a decision on the second renewed petition under 37 CFR 1.137(a), filed June 20, 2007, to revive the above-identified application.

The second renewed petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the final Office action mailed May 16, 2006, which set a shortened period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on August 17, 2006.

A grantable petition under 37 CFR 1.137(a)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

¹As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² 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.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (2).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

“In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner’s interpretation of those provisions is entitled to considerable deference.”³

“[T]he Commissioner’s discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant’s delay in prosecuting the application was unavoidable, and that the Commissioner’s adverse determination lacked **any** basis in reason or common sense.”⁴

“The court’s review of a Commissioner’s decision is ‘limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’”⁵

“The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.”⁶

The standard

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”⁷

³Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) (“an agency’ interpretation of a statute it administers is entitled to deference”); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) (“if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”)).

⁴Commissariat A L’Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

⁵Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

⁶Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

⁷Id.

The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”⁸ Nonawareness of a PTO rule will not constitute unavoidable delay.⁹

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the final Office action mailed May 16, 2006, was not received.

With regard to item (2) above, Examiner Daniel Ryman has determined that the amendment filed February 14, 2007, does not place the application in condition for allowance. In order for a renewed petition to be considered grantable, the renewed petition must be accompanied by a proper response to the final Office action mailed May 16, 2006. A proper response would be an amendment that places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal. The undersigned believes that petitioner misread the decision of June 11, 2007, to mean that the amendment of February 14, 2007, was not of record. The amendment of February 14, 2007, a copy of which was provided with the instant petition, is of record and was reviewed by Examiner Ryman. Examiner Ryman determined that the amendment filed February 14, 2007, did not place the application in condition for allowance. In order for the petition under 37 CFR 1.137(a) to be considered grantable, a proper response to the final Office action must be filed. A proper response would be an amendment that Examiner Ryman determines places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal.

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

⁸See *In re Mattulah*, 38 App. D.C. 497 (D.C. Cir. 1912).

⁹See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222. Inquiries regarding the sufficiency of the amendment should be directed to Examiner Ryman.



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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

AUG 02 2007

OFFICE OF PETITIONS

In re Application of :
Matsubara, et al. :
Application No. 09/816,067 :
Filed: March 22, 2001 :
Attorney Docket No. 16869B023900 :

ON PETITION

This is a decision on the third renewed petition under 37 CFR 1.137(a), filed July 17, 2007, to revive the above-identified application.

The third renewed petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed May 16, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowed period, and the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on June 20, 2007.

Petitioner has established that the final Office action was not received at the correspondence address of record.

The Request for Continued Examination and amendment filed July 17, 2007, are noted.

The application file will be forwarded to Technology Center 2600, GAU 2616 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

MAY 18 2005

In re Patent No. 6,731,183 : **OFFICE OF PETITIONS**
Issued: May 4, 2004 : LETTER REGARDING PTA AND
Application No. 09/816,115 : CERTIFICATE OF CORRECTION
Filed: March 26, 2001 :
Atty. Dkt. No.: 04202.0137 :

This letter is in response to the "NOTICE OF ERRONEOUS DETERMINATION OF PATENT TERM ADJUSTMENT," filed December 17, 2003. 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 zero days.

Patentees indicate that an error appears in the calculation of PTA and suggests a PTA of zero days, rather than 59 days, is appropriate.

A review of the application history reveals that the patent term adjustment of 59 days is in error. There was an Office delay of 59 days within the meaning of 37 C.F.R. 1.702(a)(1)¹. The adjustment, however, should have been reduced 59 days in accordance with 37 CFR 1.704(b) for failure to engage in reasonable efforts to conclude prosecution as indicated by patentees².

Hence, the patent term adjustment of 59 days appearing on the letters patent is in error as indicated by patentees.

¹ In accordance with 37 CFR 1.703(a), the adjustment began May 27, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended July 24, 2002, the date the non-final Office action was mailed.

² In accordance with 37 CFR 1.704(b), the reduction began March 19, 2002, the day after the date that is three months after the date of mailing of the final Office action, and ended May 16, 2003, the date a reply to the final Office action was submitted.

As patentees are 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 indicating that the above-identified patent has received zero days of patent adjustment.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin A. Ferriter
fee

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



Paper No. 3

TREVOR CODDINGTON
BROBECK PHLEGER & HARRISON L.L.P.
1333 H STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20005

COPY MAILED

AUG 7 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Knaus et al.
Application No. 09/816,152
Filed: 26 March, 2001
Attorney Docket No. 031672.0004

:
: DECISION DISMISSING
: PETITION
:
:

This is a decision on the petition filed on 5 April, 2001, requesting that the filing fee and extra claims fees paid in above-identified application be refunded.

The present application was filed on 26 March, 2001. The application transmittal sheet authorized the USPTO to charge counsel's deposit account, No. 50-1640, for the basic filing fee, additional claims fee, and any other required fees. Accordingly, counsel's deposit account was charged a total of \$826.00 (\$355.00 for the basic filing fee, \$351.00 for 39 claims in excess of 20, and \$120.00 for three (3) multiple dependent claims in excess of three (3) on 28 March, 2001. The papers, therefore, are entitled to a filing date of 26 March, 2001, and the \$826.00 filing fee paid in that application is the fee required by law.

37 CFR 1.26(a) reads, in part,

The Commissioner may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

Section 607.02, of the Manual Of Patent Examining Procedure (Rev. 1, Sept. 1995) reads, in part, as follows:

Since 37 CFR 1.26(a) precludes refund of an application

filing fee when applicant desires to withdraw an application, any request by applicant not to process or charge an application filing fee because the application was not intended to be filed must be in the form of a petition under 37 CFR 1.183 requesting suspension of the rules to the extent that the filing fee not be processed or charged. Any such petition must include the fee set forth in 37 CFR 1.17(h) and must be accompanied by an express abandonment of the application in accordance with 37 CFR 1.138. In order for such a petition to be granted, it must ordinarily be filed and acted upon prior to the date on which the application filing fee is processed or charged by the Office with regard to the application.

In this case, Office records show that the filing fees in Application No. 09/816,152 were charged to counsel's deposit account before the petition was filed and before the petition was acted upon. Additionally, an express abandonment was not included with the petition.

In view of the above, applicants' desire that the present application not be examined does not entitle applicants to a refund of the fees paid in the application. While the petition, in effect, requests waiver of 37 CFR 1.26(a), the Commissioner has no authority to waive requirements of the statute. The filing fee is a statutory requirement for a complete application (35 U.S.C. § 111(a)) and, if properly paid in the first instance, may not be refunded. The filing fee in this case was properly paid.

Accordingly, the petition is dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing and examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



GREENBLUM AND BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Chi-Cheng Ju :
Application No. 09/816,157 : NOTICE
Filed: March 26, 2001 :
Attorney Docket No. P20832 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2613.


Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 6

James J. DeCarlo
STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038

MAILED

JUL 15 2002

Technology Center 2100

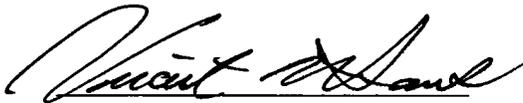
In re Application of:)	
Benjamin Arzai)	
Application No. 09/816,159	)	DECISION ON REQUEST FOR
Filed: March 22, 2001	)	WITHDRAWAL AS ATTORNEY
For: METHODS AND SYSTEMS FOR)	
EFFICIENT CHAINED		
CERTIFICATION		

This is a decision on the Request To Withdraw from Representation 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 filed June 26, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: Mr. Benjamin Arazi
CIPHERIT
38 Sigalon Street
Omer 84965 Israel

#



UNITED STATES PATENT AND TRADEMARK OFFICE

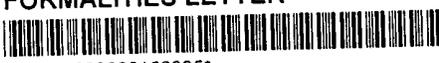
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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/816,248	03/26/2001	Peter Baumann	89491/201

CONFIRMATION NO. 8759

Stephen A. Bent, Esq.
FOLEY & LARDNER
Suite 500
3000 K Street, N.W.
Washington, DC 20007-5109

ACTION DUE MISSING Parts and Sequence Listing
CLIENT/MATTER # 89491/201
DUE DATE 08/07/2001
DKTD BY BN

FORMALITIES LETTER

OC00000006156335



ATTY SABE

Date Mailed: 06/07/2001

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 unsigned.
- 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 Patent Software, call (703) 306-2600
- For Patent Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



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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JAN 11 2002

OFFICE OF PETITIONS

BAUSCH & LOMB, INC.
ONE BAUSCH & LOMB PLACE
ROCHESTER, NY 14604--270

In re Application of	:	
Bartels, et al.	:	
Reissue Application No. 09/816,284	:	DECISION REFUSING STATUS
Filed: March 23, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: P02930	:	
For: NUTRITIONAL SUPPLEMENT TO	:	
TREAT MACULAR DEGENERATION	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 15, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 23, 2001 without an executed oath or declaration and naming Stephen Paul Bartels, Cara Lorraine Baustian, George Edwin Bunce, Leon Ellenbogen, Frederick L. Ferris, Jin Kinoshita, James Cecil Smith, and David A. Souerwine as joint inventors. Accordingly, on June 11, 2001, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The instant petition was filed in response.

Applicant was given two (2) months to respond to the Notice, making a response due on or before August 11, 2001. As the Certificate of Mailing accompanying the instant petition indicates that the petition was deposited on October 11, 2001, petitioner requires a two (2) month extension of time. Deposit account 02-1425 as been charged a two (2) month extension of time fee in the amount of \$400.00.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) set forth above. The petition lacks supporting evidence that the non-signing inventor cannot be

reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration has not been presented.

The petition states that inventor Jin Kinoshita "was contacted by telephone on both September 14, 2001 and September 20, 2001 regarding his execution of a Declaration of Inventorship" and that "on both occasions Dr. Kinoshita stated his refusal to sign a Declaration of Inventorship and join in the subject application."

Petitioner is reminded that "before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney." See, MPEP 409.03(d).

Evidence that the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), and, having been presented with the application papers thereafter refused to sign the oath or declaration, is required. Further proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the affidavit or declaration must set forth the manner in which the application papers were presented to the non-signing inventor. Petitioner should include copies of dated cover letters and/or mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers or having been presented with the application papers, refused to sign the oath or declaration. If oral refusals were made after such time as the non-signing inventor was presented with the application papers, that fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusals were made. If written refusals were made after such time as the inventor was presented with the application papers, petitioner should supply evidence of such written refusals in any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, DC 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Application No. 09/816,284

3

Telephone inquiries related to this decision may be directed to
Petitions Attorney Alesia M. Brown at (703) 305-0310.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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MAY 1 0 2002

OFFICE OF PETITIONS

BAUSCH & LOMB, INC.
ONE BAUSCH & LOMB PLACE
ROCHESTER, NY 14604--270

In re Application of	:	
Bartels, et al.	:	
Reissue Application No. 09/816,284	:	DECISION NOTING JOINDER
Filed: March 23, 2001	:	OF INVENTOR AND PETITION
Attorney Docket No.: P02930	:	UNDER 37 CFR 1.47(a) MOOT
For: NUTRITIONAL SUPPLEMENT TO	:	
TREAT MACULAR DEGENERATION	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 12, 2002 (Certificate of Mailing date of February 28, 2002).

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

October 2004

Arter & Hadden, LLP
Jurgen K. Vollrath
588 Sutter Street #531
San Francisco, CA 94102

NOV 1 2004

In re Application of:	:	
Vladislav Vashchenko et al.	:	DECISION ON REQUEST
Serial No.: 09/816,287	:	TO REMAIL
Filed: March 21, 2001	:	
Attorney Docket No.: 75292/10417	:	

This is a decision on the "Request to Remail Office Communication dated 5/28/2003" that was filed on January 26, 2004 and elaborated on in a letter entitled "Statement of Substance of Interview and surrounding facts" filed on June 30, 2004.

The request is granted.

A non-final Office action was mailed to requester on May 28, 2003. Requester asserts this Office action was never received. Instead, as noted in the letter filed on June 30, 2004, applicant received a notice (dated November 19, 2003) from the US Postal Inspection Service on January 15, 2004 advising that certain articles of mail addressed to the requester had been recovered outside postal channels. A copy of the cover letter of the Office action mailed May 28, 2003 was sent to applicant with the notice. Requester provided copies of the notice and cover letter in the request filed on January 26, 2004.

The evidence is sufficient to establish that the non-final Office action originally mailed May 28, 2003 was never received by applicant. As such, the request to remail the Office action starting a new period for response is granted. The Office action will be remailed shortly.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO, CA 95015-1687

MAILED

MAY 24 2010
OFFICE OF PETITIONS

In re Application of :
Michael F. CULBERT :
Application No. 09/816,290 : DECISION GRANTING PETITION
Filed: March 21, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **APL1P211/P2656** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*



Paper No. 8

ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191-5302

COPY MAILED

MAY 09 2003

OFFICE OF PETITIONS

In re Application of
Karl Rogers et al.
Application No. 09/816,306
Filed: March 23, 2001
Attorney Docket No. 2585-009

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)
:

This is in response to the petition filed January 13, 2003, under 37 CFR 1.47(b), in response to the Notice to File Missing Parts mailed July 17, 2002.

The petition under 37 CFR 1.47 (b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed March 23, 2001. An unexecuted declaration and power of attorney naming Karl Rogers and Timothy Evard as the inventors was presented upon filing. Accordingly, on July 17, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and surcharge for its late filing.¹ In reply, the instant petition and request for a four month extension of time was filed.

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; (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.

¹A Notice to File Missing Parts of Nonprovisional Application was mailed in error on May 3, 2001. A withdrawal of that Notice was mailed July 17, 2002.

The petition lacks item(6). The Rule 47 applicant fails to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the typed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Paper No. 10

ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191-5302

COPY MAILED

JUN 25 2003

OFFICE OF PETITIONS

In re Application of
Karl Rogers et al.
Application No. 09/816,306
Filed: March 23, 2001
Attorney Docket No. 2585-009

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the renewed petition filed under 37 CFR 1.47(b) on June 13, 2003.

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 the attorney of record, Jon L. Roberts establishes that a copy of the application was sent to the non-signing inventors. However, while the application papers were received, the inventors have not returned an executed declaration. In addition, petitioners have shown that assignee Road Runner Inc., has a proprietary interest in the above-identified application by presenting proof of the assignment recorded September 9, 2000 (Reel/Frame 011113/0766). Petitioner has submitted a declaration in compliance with 37 CFR 1.63, 1.64, and 1.175 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 related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Paper 11

KARL ROGERS
620 9TH STREET
MANHATTAN BEACH, CA 90266

TIM EVARD
C/O HARRY EVARD
3316 69TH STREET
INDIANAPOLIS, IN 46220

COPY MAILED

JUN 25 2003

OFFICE OF PETITIONS

In re Application of
Karl Rogers et al.
Application No. 09/816,306
Filed: March 23, 2001
Attorney Docket No. 2585-009
For: SYSTEM AND METHOD FOR
INTEGRATION OF HIGH QUALITY
VIDEO MULTI-CASTING SERVICE
WITH AN
INTERACTIVE COMMUNICATION AND
INFORMATION ENVIRONMENT USING
INTERNET PROTOCOLS

LETTER

Dear Mr. Rogers and Mr. Evard:

You are named as joint inventors 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 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 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 Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191-5302



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Nixon & Vanderhye P.C.
8th Floor
1100 N. Glebe Rd.
Arlington, VA 22201

COPY MAILED

SEP 04 2002

OFFICE OF PETITIONS

In re Application of :
Nicola Fanto, et al. :
Application No. 09/816,317 : **ON PETITION**
Filed: March 26, 2001 :
Attorney Docket No. 2801-36 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 non-final Office action mailed December 7, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1621.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

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)
6409098	2002-06-25	09816451	2001-03-26	RHLI-001/01US

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Sean R. O'Dowd/	Date (YYYY-MM-DD)	2006-12-07
Name	Sean R. O'Dowd	Registration Number	53403

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6409098 :
Issue Date: June 25,2002 :
Application No. 09816451 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 26,2001 :
Attorney Docket No. RHLI-001/01US :

This is a decision on the electronic petition, filed December 7,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Paper No. 9

Haim Melman
3 Hagai St.
Kfar-Saba 44335
ISRAEL

COPY MAILED

JUN 04 2003

In re Application of
Melman
Application No. 09/816,462
Filed: March 23, 2001
Attorney Docket No. N/A
FOR: COMPUTER-IMPLEMENTED METHOD
AND SYSTEM FOR BROWSING DIRECTORIES
AND GENERATING FORMS

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OFFICE OF PETITIONS
DECISION GRANTING
PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed May 20, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice), mailed May 3, 2001, which set an extendable period for reply of two (2) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on July 4, 2001 for failing to reply. A Notice of Abandonment was mailed on March 17, 2003. Applicant's first petition to revive, filed April 14, 2003, was dismissed on April 28, 2003 for failure to show the entire delay in responding to the May 3, 2001 Notice was unavoidable.

Petitioner has provided adequate evidence to show that the delay in submitting the abstract was unavoidable.¹ Petitioner states that he searched the hard copy file and the computer records for this patent application and other areas of his office/application files, but the May 3, 2003 Notice was not located.. Practitioner has provided a copy of the electronic docketing record and reminder system where the May 3, 2003 Notice would have been entered had it been received. There is no mention of the May 3, 2003 Notice. The evidence is persuasive that the delay in responding to the May 3, 2003 Notice was unavoidable.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The application will be returned to the Office of Initial Patent Examination for further processing.

¹ Pursuant to petitioner's request, the undersigned reviewed the application file again for the presence of the abstract allegedly filed on March 23, 2001. Unfortunately, the search was fruitless.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



Haim Melman
3 Hagai St.
Kfar-Saba 44335
ISRAEL

Paper No. 5

COPY MAILED

APR 28 2003

OFFICE OF PETITIONS

In re Application of
Melman
Application No. 09/816,462
Filed: March 23, 2001
Attorney Docket No. N/A
FOR: COMPUTER-IMPLEMENTED METHOD
AND SYSTEM FOR BROWSING DIRECTORIES
AND GENERATING FORMS

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**DECISION DISMISSING
PETITION**

This is a decision on the petition under 37 CFR 1.137(a), filed April 14, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice), mailed May 3, 2001, which set an extendable period for reply of two (2) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on July 4, 2001 for failing to reply. A Notice of Abandonment was mailed on March 17, 2003.

Petitioner alleges that he did not receive the May 3, 2001 Notice.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this

section. This petition does not satisfy requirements (1) and (3).

With respect to (1), petitioner has not responded to the Notice. A copy of the May 3, 2001 Notice is enclosed. It should enable petitioner to craft an appropriate response.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish nonreceipt of an Office communication must include :

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

A review of the record indicates no irregularity in the mailing of the May 3, 2001 Notice and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosures: May 3, 2001 Notice to File Corrected Application Papers

blank PTO/SB/64-- PETITION FOR REVIVAL OF AN APPLICATION
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Privacy Act Statement



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JUL 29 2008

OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

In re :
Coen. et al. : DECISION REGARDING
Application No. 09/816,467 : PATENT TERM ADJUSTMENT
Filed: March 26, 2001 :
Attorney Docket No. 03495.0174-01 :

This decision is in response to the "NOTICE OF POSSIBLE ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION", filed April 25, 2008, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred eleven (411) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office determined a patent term adjustment of four hundred twelve (412) days based on an adjustment for PTO delay of one hundred twenty-three (123) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and seven hundred twenty-four (724) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and

37 C.F.R. § 1.703(b)(4) reduced by twenty-three (23), sixty-one (61), ninety-one (91), ninety-one (91), ninety (90), and seventy-nine (79) days of applicant delay, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of seven hundred twenty-four (724) days is at issue.

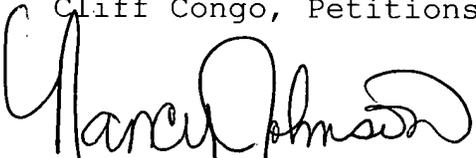
The Office should have been assessed seven hundred twenty-three (723) days pursuant to 37 C.F.R. 1.703(b)(4), not seven hundred twenty-four (724) days as indicated in PAIR. Applicants filed a Notice of Appeal on November 4, 2003. A review of the official record indicates that the Board mailed its decision on October 26, 2005, not October 27, 2005 as indicated in PAIR. Accordingly, seven hundred twenty-three (723) days of PTO delay is the proper calculation.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred eleven (411)** days (846 days of PTO delay, reduced by 435 days of applicant delay).

No petition fee was required and none has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: updated PALM screen

PALM INTRANET

PTA Calculations for Application: 09/816467

Application Filing Date:	03/26/2001	PTO Delay (PTO):	847
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	435
Post-Issue Petitions:	0	Total PTA (days):	411
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
124	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		724	
123	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		724	
122	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	723		
121	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	723		
120	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		723	
119	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	724		
105	03/21/2008	MAIL NOTICE OF ALLOWANCE			
104	03/18/2008	ISSUE REVISION COMPLETED			
103	03/18/2008	DOCUMENT VERIFICATION			
102	03/18/2008	EXAMINER'S AMENDMENT COMMUNICATION			
101	03/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
100	03/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
99	03/17/2008	NOTICE OF ALLOWABILITY			
97	01/03/2008	DATE FORWARDED TO EXAMINER			
96	12/07/2007	RESPONSE AFTER NON-FINAL ACTION		79	88
95	11/30/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
93	11/19/2007	MAIL-PETITION DECISION - GRANTED			
92	11/19/2007	PETITION DECISION - GRANTED			
91	09/24/2007	PETITION ENTERED			
89	09/27/2007	DATE FORWARDED TO EXAMINER			
88.1	09/19/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
88	09/19/2007	RESPONSE AFTER NON-FINAL ACTION		90	82
87	09/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

86	07/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
85	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
84	03/26/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	03/26/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	03/21/2007	MAIL NON-FINAL REJECTION			
81	03/17/2007	NON-FINAL REJECTION			
80	03/12/2007	DATE FORWARDED TO EXAMINER			
79	02/27/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
78	03/12/2007	DATE FORWARDED TO EXAMINER			
77	02/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	69
76	03/12/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
75	02/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
74	02/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	01/08/2007	MAIL ADVISORY ACTION (PTOL - 303)			
72	01/04/2007	ADVISORY ACTION (PTOL-303)			
71	12/05/2006	DATE FORWARDED TO EXAMINER			
70	11/27/2006	AMENDMENT AFTER FINAL REJECTION			
69	08/28/2006	MAIL FINAL REJECTION (PTOL - 326)			
68	08/25/2006	FINAL REJECTION			
67	07/07/2006	DATE FORWARDED TO EXAMINER			
66	06/28/2006	RESPONSE AFTER NON-FINAL ACTION		91	63
65	06/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	01/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
63	12/29/2005	MAIL NON-FINAL REJECTION			
62	12/21/2005	NON-FINAL REJECTION			
61	10/27/2005	MAIL BPAI DECISION ON APPEAL - REVERSED	724		29
60	10/26/2005	BPAI DECISION - EXAMINER REVERSED			
59	09/26/2005	MISCELLANEOUS INCOMING LETTER			
58	09/13/2005	CONFIRMATION OF HEARING BY APPELLANT			
57	06/03/2005	DOCKETING NOTICE MAILED TO APPELLANT			

56	06/03/2005	ASSIGNMENT OF APPEAL NUMBER			
55	05/20/2005	APPEAL AWAITING BPAI DOCKETING			
54	04/13/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
53	04/12/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
52	12/06/2004	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
46	10/06/2004	APPEAL AWAITING BPAI DOCKETING			
45	09/28/2004	MAIL REPLY BRIEF NOTED BY EXAMINER			
44	09/27/2004	REPLY BRIEF NOTED BY EXAMINER			
43	07/19/2004	REQUEST FOR ORAL HEARING			
42	07/24/2004	DATE FORWARDED TO EXAMINER			
41	07/19/2004	REPLY BRIEF FILED			
40	05/18/2004	MAIL EXAMINER'S ANSWER			
39	05/17/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
38	03/04/2004	DATE FORWARDED TO EXAMINER			
37	03/01/2004	APPEAL BRIEF FILED			
36	03/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	02/27/2004	MAIL ADVISORY ACTION (PTOL - 303)			
34	02/25/2004	ADVISORY ACTION (PTOL-303)			
33	02/14/2004	REFERENCE CAPTURE ON IDS			
32	02/09/2004	DATE FORWARDED TO EXAMINER			
31	02/03/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
30	02/03/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	11/04/2003	NOTICE OF APPEAL FILED		61	23
28	11/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	10/20/2003	MAIL ADVISORY ACTION (PTOL - 303)			
26	10/19/2003	ADVISORY ACTION (PTOL-303)			
25	09/09/2003	DATE FORWARDED TO EXAMINER			
24	08/29/2003	AMENDMENT AFTER FINAL REJECTION			
23	06/04/2003	MAIL FINAL REJECTION (PTOL - 326)			
22	06/04/2003	FINAL REJECTION			
21	04/15/2003	DATE FORWARDED TO EXAMINER			
20	04/10/2003	RESPONSE AFTER NON-FINAL ACTION		23	18

19	04/10/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	12/18/2002	MAIL NON-FINAL REJECTION			
17	12/16/2002	NON-FINAL REJECTION			
16	10/29/2002	DATE FORWARDED TO EXAMINER			
15	10/24/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
14.7	10/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/26/2002	MAIL RESTRICTION REQUIREMENT	123		-1
12	09/26/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
11	08/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
10.7	11/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/29/2001	PRELIMINARY AMENDMENT			
8	06/29/2001	PRELIMINARY AMENDMENT			
7	09/11/2001	APPLICATION DISPATCHED FROM OIPE			
6	04/30/2001	APPLICATION IS NOW COMPLETE			
5	08/15/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	04/30/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/26/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/20/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/26/2001	INITIAL EXAM TEAM NN			

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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



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GARRETT & DUNNER LLP
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JUN 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,435,792 : DECISION ON
Coen et al. : REQUEST FOR RECONSIDERATION
Application No. 09/816,467 : of PATENT TERM ADJUSTMENT
Issue Date: October 14, 2008 : and
Filed: March 26, 2001 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 03495.0174-01 : CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.183 and 37 CFR 1.705(d), filed November 12, 2008, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred fifty-eight (1358) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred fifty-eight (1358) days is **GRANTED to the extent indicated herein.**

Pursuant to 37 CFR 1.703(b)(4), the number of days an application is under appeal is not taken into account when calculating Office delay for not issuing a patent within three years. As such, the patent term adjustment is 635, not 1358 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred thirty-five (635) days.**

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo,
at (571) 272-3207.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,435,792 B2

DATED : October 14, 2008

INVENTOR(S) : Coen 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 512 days.

Delete the phrase "by 512 days" and insert – by 635 days--



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Paper No.6

Paul Hentzel
441 Nevada Avenue
Palo Alto, CA 94301

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AUG 27 2001

OFFICE OF PETITIONS

In re Application of
Wilson Smart et al.
Application No. 09/816,472
Filed: March 26, 2001
For: Silicon Microprobe with Integrated
Biosensor

:
:
: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)
:

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 2001. The petition was accompanied by a Declaration signed by previous non-signing inventor, Mr. Eugene Orloff, in compliance with 37 CFR 1.63. Therefore, the originally filed declaration taken in combination with the declaration filed July 30, 2001 will be accepted as complying with 37 CFR 1.63.

The petition under 37 CFR 1.47(a) is **granted**.

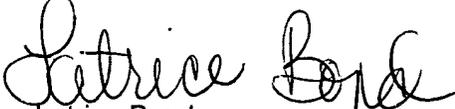
Petitioner has shown that inventor Kumar Subramanian has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to The Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.


Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy


Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang :
Application No. 09/816,492 : DECISION GRANTING PETITION
Filed: March 23, 2001 : UNDER 37 CFR 1.313(c) (2)
Attorney Docket No. 07977-029003 :

This is a decision on the petition, filed February 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 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

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang :
Application No. 09/816,492 : DECISION GRANTING PETITION
Filed: March 23, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977-029003 / :
US3002/326 :

This is a decision on the petition, filed March 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 20, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.


Frances Hicks
Petitions Examiner
Office of Petitions

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¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: “The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must be completed and timely submitted to avoid abandonment.** Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).”*