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John B Pegram
Fish & Richardson PC
45 Rockefeller Plaza
New York NY 10111

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2002
REISSUE UNIT

In re Application of Kawase et al Appl. No. 09/824,965 Filed: April 3, 2001 Attorney Docket NO. 12967-002001	DECISION GRANTING PETITION UNDER 37 CFR 1.183

This is a decision on the July 13, 2001, "PETITION TO ACCEPT SUBSTITUTE SPECIFICATION IN REISSUE APPLICATION." The petition is being treated, for reasons set forth below, as a petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is granted.

A fee of $130.00 has been charged to Deposit Account No. 06-1050 for the petition under 37 CFR 1.183, as authorized by the last sentence of the petition.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification submitted with the petition. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d).

37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The submitted substitute specification is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

Petitioner requests that the substitute specification (which is not permitted by 37 CFR 1.125(d)) incorporating *numerous* Certificate of Correction changes be accepted in lieu of the specification (two-column format which is essentially a copy of the original patent) required by 37 CFR 1.173. If strict compliance with §§ 1.125(d) and 1.173 is required, the incorporation of the Certificate of Correction changes into the reissue-formatted specification would make reading and understanding of the specification extremely difficult and error-prone. Petitioner is thus, in effect, requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) in order to introduce the numerous changes into the specification in a clean fashion. Petitioner has also provided a marked-up version of the specification as an aid to the examiner in identifying the Certificate of Correction changes.

In the present instance the presence of the substitute specification will make the specification much more easily readable than would a copy of the printed patent, in double column format, with numerous insertions. Thus, justice warrants a waiver of the rules in the instant application.

CONCLUSION

1. The petition under 37 CFR 1.183 is <u>granted</u>.

2. The substitute specification filed with the petition is accepted.

3. The reexamination file is being forwarded to the examiner via the Special Program Examiner of Technology Center 1700.

4. Telephone inquiries with regard to this decision should be directed to the undersigned at (703) 308-6710.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

February 12, 2002
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APR 0 7 2005

Technology Center 2100

Lawrence J. Merkel
Conley, Rose & Taylor, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of: McGrath, et al.	)
Application No. 09/824,978	) DECISION ON PETITION FOR
Attorney Docket No. 5500-66000	) SUPERVISORY REVIEW REGARDING
Filed: 04/02/2001	) FINALITY OF RESTRICTION
For: MULTIPLE ENTRY POINTS FOR	) REQUIREMENT UNDER 37 CFR
SYSTEM CALL INSTRUCTIONS	) §1.144

This is in response to the petition filed on December 6, 2004 (duplicate filed on December 29, 2004), under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on October 7, 2004. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181).

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) A non-final rejection was mailed on June 4, 2004, in which claims 1-30 were examined.

(2) A response to the non-final rejection was filed on July 23, 2004, in which claims 6, 16 & 26 were cancelled and claims 31-55 were added.

(3) A final rejection along with a restriction requirement (by original presentation) was mailed on October 7, 2004, in which claims 31-41 and 43-53 were subject to restriction and/or election requirement. The application was identified to contain the following patentably distinct species: Species 1 (Group I) – drawn to claims 1-5, 7-15, 17-25, 27-30 & 42; Species 2 (Group II) – drawn to claims 31-41; and Species 3 (Group III) – drawn to claims 43-53. The examiner held that since applicant had received an action on the merits for the originally presented invention (i.e. Group I, claims 1-5, 7-15, 17-25, 27-30 and 42), the invention had been constructively elected by original presentation. Accordingly, Groups II and III, claims 31-41 and 43-53, were withdrawn from consideration as being directed to a non-elected invention.

(4) On October 29, 2004 a response to the final rejection and election requirement was filed in which applicant requested reconsideration of the claims and withdrawal of the election requirement as improper. Applicant provided reasons in support of the request for withdrawal of

the requirement, including a discussion of M.P.E.P. 806.04(f) regarding a proper species restriction.

(3) On November 23, 2004, the Examiner issued an advisory action, in response to the October 29, 2004 reply. This office action determined the requirement for election to be proper, (therefore considered to be made FINAL).

(4) On December 6, 2004, the instant petition was filed by Petitioner, under 37 CFR §1.144.

(5) A notice of Appeal was filed on January 11, 2005.

RELIEF REQUESTED

The instant petition under 37 CFR 1.144 requests the following relief:

(1) withdrawal of the election requirement of October 7, 2004 (considered to have been made FINAL on November 23, 2004);
(2) as a result of item (1), reopening of prosecution on the merits and examination of all pending claims.

ANALYSIS

Petitioner provides various arguments in support of the withdrawal of the election requirement including reference to M.P.E.P. §806.04(f), which states:

> Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.

In addition, note M.P.E.P. §806.03 sets forth:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Petitioner states that the claim groups enumerated by the Examiner do not define species having mutually exclusive characteristics under Applicant's disclosure, thus the restriction requirement is improper. A review of the instant application does in fact set forth that the claim groupings identified by the Examiner are related. Petitioner correctly asserts that "mutually exclusive characteristics" is a requirement of the species as described in the disclosure and does not mean that one claim recites a limitation not expressly recited in another claim (as identified by the Examiner). The specification of the instant application provides such interrelation of the identified groupings (see for example Figs. 9-14, specification pages 29-40 and compare claims 1, 11, 21, 31, 42, 43, 48 and 52).

Thus, and in accordance with M.P.E.P. §806.03(f) and §806.04, the species election requirement of October 7, 2003 between Groups I, II and III is deemed to be improper.

The petition is **GRANTED**. The previous action (final rejection) and election requirement is **WITHDRAWN** and a new office action will be forthcoming. Applicant is not required to file an Appeal Brief at this time.

The application is being forwarded to the Examiner for appropriate action i.e. reopening of prosecution on the merits and examination of all pending claims, consistent with this decision.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paper No. 9

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

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of

Shibuya, et al.

Application No. 09/824,991

Filed: April 2, 2001

Attorney Docket No. 16869P023000

DECISION ON

PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 9, 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 above-identified application became abandoned for failure to reply to the non-final Office action mailed October 2, 2003 which set a shortened statutory 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 January 3, 2004.

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

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

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

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

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

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

As to item (1), a proper reply to the non-final Office action was not received. This reply may include a continuing application or an amendment. The renewed petition be accompanied by a proper reply to the non-final Office action.

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

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 12

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OFFICE OF PETITIONS

In re Application of

Shibuya, et al.

Application No. 09/824,991

Filed: April 2, 2001

Attorney Docket No. 16869P023000

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 21, 2005 (certificate of mailing dated November 18, 2005), to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 2, 2003, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowed period, and the application became abandoned on January 3, 2004. A petition under 37 CFR 1.137(b) was filed on June 9, 2005, and dismissed by a decision mailed September 19, 2005.

The amendment filed November 21, 2005, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2614 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

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Paper No. None

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes NJ 07417-1880

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AUG 0 3 2005
OFFICE OF PETITIONS

In re Application of
Paul G. Alchas
Application No. 09/825,017
Filed: April 3, 2001
Attorney Docket Number: P-4498D1
Title: INTRADERMAL DELIVERY DEVICE INCLUDING A NEEDLE ASSEMBLY

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed March 28, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed September 21, 2004, which set a shortened statutory period for reply of 3 months. No response was received, and no extensions of time pursuant to 37 C.F.R. §1.136 were requested. Accordingly, the above-identified application became abandoned on December 22, 2004. A Notice of Abandonment was mailed on March 22, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

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.

An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[2]. Accordingly, since the $ 1,500 extension of time submitted with the petition on March 28, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 09

Wagner, Murabito & Hao
Third Floor
Two North Market Street
San Jose CA 95113

AUG 20 2003

In re Application of:	:	
Rogers, *et al.*	:	DECISION ON PETITION
Application No. 09/825,027	:	TO WITHDRAW HOLDING
Filed: April 02, 2001	:	OF ABANDONMENT
Attorney Docket No:.AMD-E1019	:	

This is a decision on the petition filed August 12, 2003, to withdraw the holding of abandonment of the above-identified application for which no fee is required.

The request is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on December 10, 2002. A Notice of Abandonment was mailed on June 17, 2003.

Petitioner asserts that a response including a petition for extension of time of three months with the required fee and a response to the Office action was filed in the above-identified application on March 17, 2003. To support this assertion, petitioner has provided a copy of a response including, *inter alia*, a petition for extension of time of three months with the required fee, a response to the Office action, and a copy of a return postcard that properly identifies and acknowledges receipt of each of the above items by the United States Patent and Trademark Office (PTO) on March 25, 2003. The copy of the response bears a Certificate of Mailing under 37 CFR 1.8(a) showing a date of deposit with the United States Postal Service on March 17, 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, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima*

facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Additionally, the PTO fee records indicate that a fee for an extension of time of three months, in the amount of $930.00, was received on March 25, 2003. As such, the evidence indicates that the response was received in the PTO on March 25, 2003, but lost after receipt thereof.

For the above-stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

Petitioner please note that the fee records for the above identified application show that there was a $130.00 check posted to the account on July 11, 2003, having a mail room date of July 09, 2003. If this fee was paid in error, please request a refund, in writing, for the above identified fee.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Kristopher P. Braud, et al.	:	
Application No. 09/825,051	:	DECISION ON PETITION
Filed: April 3, 2001	:	TO WITHDRAW
Attorney Docket No. PHNS-0003	:	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 20, 2007.

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 petitioner was not appointed by customer number.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on March 8, 2004 does not include one of the above two options.

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

There is an outstanding Office action mailed April 23, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KRISTEN ERTER
PHNS INC.
ONE LINCOLN CENTRE
5400 LVJ FREEWAY
SUITE 200
DALLAS, TX 75240

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RICHARDSON, TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Kristopher P. Braud, et al.	:	
Application No. 09/825,051	:	DECISION ON PETITION
Filed: April 3, 2001	:	TO WITHDRAW
Attorney Docket No. PHNS-0003	:	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 14, 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 J. Joel Justiss on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely respond to the outstanding Office action mailed April 23, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KRISTOPHER P. BRAUD
10530 TANWOOD AVENUE
BATON ROUGE, LA 70809

cc: KRISTEN ERLER
PHNS INC.
ONE LINCOLN CENTRE
5400 LBJ FREEWAY
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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
09/825,051	04/03/2001	Kristopher P. Braud	PHNS-0003

CONFIRMATION NO. 2009

POWER OF ATTORNEY NOTICE

27964
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P.O. BOX 832570
RICHARDSON, TX 75083

OC000000028886977

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/14/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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T. GREGORY PETERSON
BRADLEY ARANT BOULT CUMMINGS, LLP
1819 5TH AVENUE NORTH
BIRMINGHAM, AL 35203-2119

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APR 27 2009

OFFICE OF PETITIONS

In re Patent No. 6,846,488 :
Issue Date: January 25, 2005 :
Application No. 09/825,105 :
Filed: April 3, 2001 :
Attorney Docket No. D6321 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 26, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Technology Center 1633 for a Supervisory Patent Examiner's consideration of the petition under 37 CFR 1.324 to correct inventorship in a patent, filed December 22, 2005.

Shirene Willis Brantley
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
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Gibbons, Del Deo, Dolan,
Griffinger & Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

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FROM DIRECTORS OFFICE

SEP 30 2005

TECHNOLOGY CENTER 3600

In re application of
Thomas L. Kapp
Application No. 09/825,141 :
Filed: April 2, 2001 :
For: WEB-BASED MEDICATION MANAGEMENT SYSTEM :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 30, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B) above.

As to condition B) the reason "This firm no longer represents the assignee of this patent," does not correspond to any of the reasons set forth in 37 CFR 10.40 (b) or (c).

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619
Facsimile No.: (571) 273-8300

RAR/dcg: 9/9/05

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Newark, NJ 07102-5497

In re application of
Thomas L. Kapp
Application No. 09/825,141
Filed: April 2, 2001
For: WEB-BASED MEDICATION MANAGEMENT SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 4, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B) above.

As to condition B) the reason "The assignee of this application owes this firm a substantial amount of payment. No payment has been received for three years," does not satisfy one of the reasons for withdrawal, since there is no assignee of record. Condition (B) can be met by clearly specifying one of the valid reasons for withdrawal as set forth in 37 CFR 10.40 (b) or (c).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587
Facsimile No.: (571) 273-8300

KJD/dcg: 11/9/05

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In re Application of Abbott et al. Application No. 09/825,159 Filed: April 2, 2001 Attorney Docket No. 890057.408C	: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT " filed on December 07, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 280 days to a determination of nine hundred and eighty-one (981) days.

Applicants application for PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect this decision. The proper amount of PTA at the time of the mailing of the notice of allowance is **981** days.

Applicants assert that the Office erred in the PTA calculation. The Office provided six-hundred and eighteen-days of administrative delay for the failure to initially act upon the application within 14 months of the filing date of the application. See 37 CFR 1.702(a)(1). Applicants agree with this determination. However, applicants disagree with the three hundred and fifty-one reduction under 1.704(b). Applicants assert that the amendment was received within three months as evidenced by the postcard receipt. Applicants assert that the Office date that the used in the PALM was the day that applicants mailed a courtesy copy of the earlier filed response date.

A review of the file reflects that applicants arguments are persuasive. Applicants have submitted a postcard receipt as evidence of the date of the response to the February 10, 2004 Office action. A postcard receipt that properly identifies the items which are being filed serves a *prima facie* evidence of receipt of such information within the USPTO. See MPEP 503. Accordingly, applicants response was timely filed within the three-month period under 37 CFR 1.704(b) and the three hundred and fifty-one day (351) assessment was in error. In addition, the Office additionally failed to meet the requirement of 37 CFR 1.702(a)(2) because the Office did not reply to the May 10, 2004 until September 8, 2005. An additional Office delay of three hundred and sixty-three (363) days rather than 13 days should have been assessed. Overall the accurate determination at the time of the mailing of the notice of allowance is nine hundred and eighty-one (981) days.

After the mailing of this decision, the Office will forward this patented file to the Office of Patent Publications for a prompt issuance of the patent.

Any delays in the failure to issue this application within four months of the payment of the issue fee as required in 37 CFR 1.702(a)(4) will be reflected on the issue notification letter that is mailed to applicants approximately three weeks prior to issue date. Any delays by applicant for submissions by applicants that are reductions under 37 CFR 1.704(c)(10) will be reflected in the PTA determination that is provided to applicant in the issue notification letter.

The Office has assessed the $200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

Kery Fries

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

cc: adjusted Pair calculation

Day : Monday
Date: 5/15/2006

PALM INTRANET

Time: 11:02:27

PTA Calculations for Application: 09/825159			
Application Filing Date:	04/02/2001	PTO Delay (PTO):	631
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	351
Post-Issue Petitions:	0	Total PTA (days):	981
PTO Delay Adjustment:	701		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		13	
45	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	363		
44	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	351		
33	09/08/2005	MAIL NOTICE OF ALLOWANCE	13		25
32	08/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	08/18/2005	ISSUE REVISION COMPLETED			
29	08/09/2005	MAIL EXAMINER'S AMENDMENT			
28	08/06/2005	EXAMINER'S AMENDMENT COMMUNICATION			
27	08/06/2005	NOTICE OF ALLOWABILITY			
26	06/08/2005	DATE FORWARDED TO EXAMINER			
25	04/26/2005	RESPONSE AFTER NON-FINAL ACTION		351	14
24	07/19/2001	NEW OR ADDITIONAL DRAWING FILED			
23	03/15/2005	MISCELLANEOUS INCOMING LETTER			
22	04/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	03/21/2005	REFERENCE CAPTURE ON IDS			
20	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
18	04/25/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	12/20/2002	REFERENCE CAPTURE ON IDS			
16	07/16/2002	REFERENCE CAPTURE ON IDS			
15	05/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	02/10/2004	MAIL NON-FINAL REJECTION	618		-1

13	02/08/2004	NON-FINAL REJECTION			
12	01/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	09/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	12/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/19/2001	PRELIMINARY AMENDMENT			
7	11/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	06/22/2001	APPLICATION IS NOW COMPLETE			
4	06/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/22/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/02/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Day : Monday
Date: 5/15/2006

PALM INTRANET

Time: 09:33:09

PTA Calculations for Application: 09/825159			
Application Filing Date:	04/02/2001	PTO Delay (PTO):	631
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	351
Post-Issue Petitions:	0	Total PTA (days):	280
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
33	09/08/2005	MAIL NOTICE OF ALLOWANCE	13		25
32	08/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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12	01/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	09/08/2003	CASE DOCKETED TO EXAMINER IN GAU			

363
392
184

10	12/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/19/2001	PRELIMINARY AMENDMENT			
7	11/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	06/22/2001	APPLICATION IS NOW COMPLETE			
4	06/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/22/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
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9	07/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/19/2001	PRELIMINARY AMENDMENT			
7	11/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	06/22/2001	APPLICATION IS NOW COMPLETE			
4	06/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/22/2001	CORRESPONDENCE ADDRESS CHANGE			
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TECHNOLOGY CENTER 3600

Kimberly A. Chasteen
WILLIAMS MULLEN
Fountain Plaza Three, Suite 200
721 Lakefront Commons
Newport News, VA 23606

In re Application of	:	
James D. Mitchell	:	**DECISION ON PETITION**
Application No.09/825,176	:	**TO WITHDRAW**
Filed: April 3, 2001	:	**ABANDONMENT**

For: TRIMMER ATTACHMENT FOR LAWN MOWERS AND TRACTORS

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on February 10, 2004 and August 18, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed November 14, 2002 which set a three month shortened statutory period. No response was received and a Notice of Abandonment was sent on December 12, 2003.

Petitioner contends that a response was timely filed on May 14, 2003 with a request for a three month extension of time. In support thereof, petitioner submits, a copy of a response bearing a Certificate of Transmission signed by Gail S. Morgan and dated May 14, 2003.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission 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), by the person who signed the certificate.

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, in this instance, Gail S. Morgan. The statement made by Kimberly A. Chasteen attesting to the timely mailing has been noted, however, absent any extenuating circumstances, this statement must be made by the person who signed the certificate.

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."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 9/14/05

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WILLIAMS MULLEN
FOUNTAIN PLAZA THREE, SUITE 200
721 LAKEFRONT COMMONS
NEWPORT NEWS, VA 23606

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OFFICE OF PETITIONS

In re Application of :

James D. Mitchell, Jr. :

Application No. 09/825,176

: DECISION ON PETITION

Filed: April 3, 2001

:

Attorney Docket No. 029079.0001

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 27, 2005.

The petition under 37 CFR 1.181(a) is **DISMISSED**.

The above-cited application was filed on April 3, 2001. A final Office action was mailed in the application on November 14, 2002, allowing a three-month statutory period for reply. A filing was made on May 14, 2003, which was alleged to contain a Notice of Appeal in response to the final Office action. A review of the application file does not reveal the actual Notice of Appeal filed on May 14, 2003, although copies of the Notice of Appeal received on later dates are noted. Having noted no proper response to the final Office action, the application became abandoned on February 15, 2003. A Notice of Abandonment was mailed on December 12, 2003.

A petition to withdraw the holding of abandonment was first filed on August 18, 2005, wherein petitioner argued that a timely response in the form of a Notice of Appeal was made on May 14, 2003, accompanied by a request for an extension of time within the third month. The petition was dismissed by a decision mailed on October 4, 2005. The petition was dismissed because a statement did not accompany it from the person who signed the certificate of transmission pursuant to 37 CFR 1.8. The instant renewed petition was filed on October 27, 2005, wherein petitioner argues that the person who signed the certificate of transmission is no longer employed by petitioner, but that Ms. Kimberly Chasteen , who signed the petition, has personal knowledge that the Notice of Appeal was transmitted on May 14, 2003. The undersigned has found persuasive petitioner's arguments on the merits of the petition; however, the petition is being dismissed because it is untimely. Further to this point, section 711.03(C) of the *Manual of Patent Examining Procedure* (MPEP), provides, in pertinent part, that:

> 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any

> petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).
>
> Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

Although a Notice of Abandonment was mailed December 12, 2003, the first petition under 37 CFR 1.181 was not filed until August of 2005. The petition to withdraw the holding of abandonment is, therefore, untimely. Petitioner may file a second renewed petition along with a terminal disclaimer, which is enclosed for petitioner's convenience.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/63—"Terminal Disclaimer to Accompany Petition"

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NEWPORT NEWS, VA 23606

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OFFICE OF PETITIONS

In re Application of :

James D. Mitchell, Jr. :

Application No. 09/825,176

Filed: April 3, 2001 : DECISION ON PETITION

Attorney Docket No. 029079.0001 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 27, 2005.

The decision on petition mailed January 3, 2006, is **VACATED**.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The above-cited application was filed on April 3, 2001. A final Office action was mailed in the application on November 14, 2002, allowing a three-month statutory period for reply. A filing was made on May 14, 2003, which was alleged to contain a Notice of Appeal in response to the final Office action. A review of the application file does not reveal the actual Notice of Appeal filed on May 14, 2003, although copies of the Notice of Appeal received on later dates are noted. Having noted no proper response to the final Office action, the application became abandoned on February 15, 2003. A Notice of Abandonment was mailed on December 12, 2003.

A petition to withdraw the holding of abandonment was first filed on August 18, 2005, wherein petitioner argued that a timely response in the form of a Notice of Appeal was made on May 14, 2003, accompanied by a request for an extension of time within the third month. The petition was dismissed by a decision mailed on October 4, 2005. The petition was dismissed because a statement did not accompany it from the person who signed the certificate of transmission pursuant to 37 CFR 1.8. The instant renewed petition was filed on October 27, 2005, wherein petitioner argues that the person who signed the certificate of transmission is no longer employed by petitioner, but that Ms. Kimberly Chasteen , who signed the petition, has personal knowledge that the Notice of Appeal was transmitted on May 14, 2003. The undersigned has found persuasive petitioner's arguments on the merits of the petition. The petition, is granted and the holding of abandonment to withdrawn, accordingly.

The application file is being directed to Technology center 3600, GAU 3671, for further processing.

Questions 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

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MARK W. ROBERTS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of	:	
Edward Lo et al.	:	
Application No. 09/825,184	:	NOTICE
Filed: April 2, 2001	:	
Attorney Docket No. 500742.01	:	

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

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

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

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 2800.

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

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ON PETITION

John F. Klos
225 South Sixth Street, Suite 4850
Minneapolis, MN 55402

In re Application of :
J. Potter et al. :
Application No. 09/825,202 :
Filed: June 30, 2000 :
Attorney Docket No. 24,576-03 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 26, 2003.

The application file is being forwarded to Technology Center AU 3637 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

SAMUEL A. KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE CA 95120

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OFFICE OF PETITIONS

In re Application of Reiner Kraft Application No. 09/825,210 Filed: April 2, 2001 Attorney Docket No.: ARC920010034US1 Title: SYSTEM AND METHOD FOR ASSOCIATING A DESTINATION DOCUMENT TO A SOURCE DOCUMENT DURING A SAVE PROCESS	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed November 10, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

It is noted in passing that the petition contains the wrong title. It will be presumed by the undersigned that this is a typographical error.

---

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

The 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 April 4, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on July 5, 2006. A notice of abandonment was mailed on November 16, 2006.

With the present petition, Petitioner has submitted the petition fee, the proper statement of unintentional delay, a notice of appeal and the associated fee, as well as an appeal brief and the associated fee. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 20 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Stephen A. Terrile
HAMILTON & TERRILE, L.L.P.
P.O. Box 203518
Austin, Texas 78759

In re Application of:
Larry D. BARTO et al.
Application No. 09/825,225
Filed: April 3, 2001
For: STARVATION AVOIDANCE LOT START AGENT (SALSA)

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on November 28, 2003, requesting that the shortened statutory period for reply set forth in the Office communication mailed on May 23, 2003 be reset to run from the date of October 23, 2003.

The petition is **GRANTED**.

Petitioner provided a statement that a Notification of Change of Address, a return receipt postcard and a Power of Attorney by Assignee of Entire Interest were filed on February 15, 2002 and applicant did not receive the Office communication in question until October 23, 2003 via facsimile. A copy of the return receipt indicating receipt of the Notification of Change of Address and the Power of Attorney by Assignee of Entire Interest was received on March 1, 2002.

Accordingly, the Office communication (Final Office action) originally mailed on May 23, 2003 is hereby reset to run FROM THE DATE OF October 23, 2003.

Applicant's submissions of Notice of Appeal and Appeal Brief dated November 28, 2003 have been entered. The one-month extension of time fee ($110.00) paid on January 12, 2004 will be credited to Deposit Account No. 01-0365.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone is (703) 305-9750.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of	:
Sita R. Kaura	:
Application No. 09/825,258	: DECISION GRANTING PETITION
Filed: April 3, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 65,409-001	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182, filed June 21, 2006, to expedite consideration of the petition to revive.

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

The petition under 37 CFR 1.182 is **DISMISSED** since expedited consideration was unable to be undertaken in view of the loss of the application. Therefore, the $400 fee submitted therefor will be refunded in due course.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 16, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 17, 2003. A Notice of Abandonment was mailed on July 15, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination (RCE), the $395 fee therefor, and submission as required by 37 CFR 1.114, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 16, 2002 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1617 for processing the RCE and for appropriate action in the normal course of business on the amendment received October 20, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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PETER LUDWIG
DARBY & DARBY
805 THIRD AVE
NEW YORK, NY 10022-7513

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AUG 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Dan Raphaeli	:	
Application No. 09/825,268	:	DECISION GRANTING PETITION
Filed: April 3, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2681/OJO69USO	:	

This is a decision on the petition, filed noember 19, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 2, 2004 accompanies this decision on petition.

After this decision is mailed, deposit account No. 50-2057 will be charged $665.00 for the petition fee.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

This matter is being referred to Technology Center Art Unit 2634 await a reply to the non-final Office mailed August 16 ,2004.

Wan Laymon

Wan Laymon
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

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/825,268	04/03/2001	Dan Raphaeli	2681/OJO69USO

CONFIRMATION NO. 2081

OC000000013599090

25937
ZARETSKY & ASSOCIATES PC
8753 W. RUNION DR.
PEORIA, AZ 85382-6412

Date Mailed: 08/20/2004

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 12/02/2004.

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 (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[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".

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Paper No. 6

DORSEY & WHITNEY LLP
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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JUN 05 2002

OFFICE OF PETITIONS

In re Application of :
Jacobs et al. :
Application No. 09/825,296 :
Filed: April 2, 2001 :
Attorney Docket No. 500743.01 :

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 file is being forwarded to Technology Center AU 3623 for processing in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

APR 28 2005

In re Application of:
Shirahata et al.
Serial No.: 09/825,339
Filed: April 4, 2001
Attorney Docket No.: **ASA-811-02**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed June 18, 2003, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on October 2, 2002. A Notice of Abandonment was mailed on June 3, 2003.

Petitioner asserts that a response was timely filed by facsimile transmission on January 2, 2003. To support this assertion, petitioner has submitted 1) a copy of a response which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated January 2, 2003 and 2) a copy of the Auto-Reply from the USPTO confirming successful transmission of the response on January 2, 2003.

Pursuant to 37 C.F.R. § 1.8 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.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on June 18, 2003, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROBERT E. WEST
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of	:	
Paul G. Alchas	:	
Application No. 09/825,395	:	DECISION ON PETITIONS
Filed: April 3, 2001	:	37 CFR 1.137(b)
Attorney Docket No. P-4498C1	:	

This is a decision on the petition under 37 CFR §1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the three month shortened statutory period set in the non-final Office Action mailed December 15, 2004. No timely filed extensions of time were obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is March 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (amendment); (2) the petition fee of $1500.00 (large entity) and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-Final office action mailed December 15, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $ 1,020.00 extension of time submitted with the petition on July 7, 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 Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center Art Unit 3763 for appropriate action on the concurrently filed response.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Application of	:	
Stuart D. Baker, et al.	:	
Application No. 09/825,431	:	ON PETITION
Filed: April 3, 2001	:	
Attorney Docket No. 209.1001	:	

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

The petition is **GRANTED**.

This application became abandoned for a failure to timely reply to the final Office action mailed March 6, 2006. This decision precedes the mailing of a Notice of Abandonment.

It is noted that on September 11, 2006, a timely Request for Continued Examination (RCE) was filed without the submission required by 37 CFR 1.114. On October 13, 2006, a Notice of Improper Request for Continued Examination (RCE) was mailed. In response, on October 23, 2006, the present petition was filed, including a submission under 37 CFR 1.114 in the form of an amendment.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being referred to Technology Center AU 2176 for further processing the RCE filed September 11, 2006 using the amendment filed October 23, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NATH & ASSOCIATES
1030 15th STREET
6TH FLOOR
WASHINGTON DC 20005

Paper No. 11

In re application of:
Sivan Tafla
Application No. 09/825439
Filed: April 2, 2001
For: METHOD AND SYSTEM FOR PRESENTING AN ANIMATED ADVERTISEMENT ON A WEB PAGE

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on March 25, 2003 by John C. Phillips, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of June 30,2003.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
Fax: (703) 605-0586

kjd/ekn: 08/28/03

cc: Fish & Richardson P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, California 92122

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Paper No. 6

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BOSTON MA 02210-2211

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OFFICE OF PETITIONS

In re Application of
Wheeler, et al.
Application No. 09/825,450
Filed: April 3, 2001
Attorney Docket No. L0562/7015

DECISION DISMISSING PETITION

This is a decision on the petition filed March 15, 2002 (certificate of mailing date March 7, 2002), requesting that the above-identified application be accorded a filing date of April 2, 2001.

Petitioners allege that the application was deposited in Express Mail service on April 2, 2001. However, the "date-in" on Express Mail mailing label no. EL711223025US is missing.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the

satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed March 15, 2002 (certificate of mailing date March 7, 2001), does not include: a showing that the application was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for April 2, 2001 and the corroborating evidence required by the rule. The letter from the USPS employee does not state that the application was deposited on April 2, 2001 prior to the last scheduled pick-up.

In the absence of acceptable evidence, the filing date of the application remains the date it was received in the Office, namely April 3, 2001.

Accordingly, the petition is **dismissed**.

Pursuant to petitioners' authorization, deposit account no. 23-2825 will be refunded the $130.00 petition fee.

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

The application is being returned to Examining Group 3600 for examination in due course with the presently accorded filing date of April 3, 2001.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLEON L. GRIFFITHS
10080 WEST 8TH PLACE
LAKEWOOD CO 80215

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JAN 18 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cleon Louis Griffiths :
Application Number: 09/825483 :
Filing Date: 04/03/2001 :
For: SECURE CONDOM :

This is a decision on the petition filed on December 17, 2007, under 37 CFR 1.137(a),[1] to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on November 23, 2002, for failure to timely file a proper response to the Office letter mailed on October 22, 2002, which states that the previously filed reply appeared to be *bona fide,* but was not fully

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

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

responsive to the prior Office action. The Office communication mailed on October 22, 2002 set a one (1)-month shortened statutory period for reply. An untimely response was received on March 18, 2003. On November 5, 2003, an Office letter was mailed stating that the reply filed on March 18, 2003, was untimely, and that extensions of time were required. On November 18, 2003, Notice of Abandonment was mailed.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as

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[2] 35 U.S.C. § 133.

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

failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

Petitioner has provided no basis supporting a showing of unavoidable delay. The statements in the petition appear to be simply petitioner's interpretation of his communications with the examiner and arguments as to why petitioner believes the invention is patentable.

As petitioner has provided no basis for a showing of unavoidable delay, the petition must be dismissed.

Petitioner may wish to consider utilizing the services of a registered patent attorney or agent. The USPTO cannot recommend any particular attorney or agent, or aid in the selection of an attorney or agent, as by stating, in response to inquiry that a named patent attorney, agent, or firm, is "reliable" or "capable." The USPTO maintains a directory of registered patent attorneys and agents at http://www.uspto.gov/web/offices/dcom/olia/oed/roster/index.html. Petitioner may also receive further information by calling the Inventor's Assistance Center at 1-800-PTO-9199.

ALTERNATIVE VENUE

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

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

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

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

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $770.00 for a small entity.

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

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-09

CLEON L. GRIFFITHS
10080 WEST 8TH PLACE
LAKEWOOD CO 80215

COPY MAILED

MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Cleon Louis Griffiths	:	
Application Number: 09/825483	:	ON PETITION
Filing Date: 04/03/2001	:	
For: SECURE CONDOM	:	

This is a decision on the paper filed on March 10, 2009, which, is treated as a renewed petition under 37 CFR 1.137(a),[1] to revive the above-identified application.

The petition is again **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on November 23, 2002, for failure to timely file a proper response to the Office action stating that the prior reply appeared to be a *bona fide* attempt

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

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

at a reply, but was insufficient, which set a one (1) month shortened statutory period for reply. A response was received on March 18, 2003, but was untimely. On November 5, 2003, an Office letter was mailed stating that the reply filed on March 18, 2003, was untimely, and that extensions of time were required. On November 18, 2003, Notice of Abandonment was mailed. A petition under 37 CFR 1.137(a) was filed on December 17, 2007. On January 18, 2008, the petition was dismissed.

On March 10, 2009, the subject letter was filed, addressed to the undersigned Petitions Attorney, whereby petitioner *pro se* states that he wishes to provide additional information concerning the circumstances at the time the application was filed.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

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[2] 35 U.S.C. § 133.

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

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(a):

(1) The delay in reply that originally resulted in abandonment;
(2) The delay in filing an initial petition pursuant to § 1.137(a) to revive the application; and
(3) The delay in filing a *grantable* petition pursuant to § 1.137(a) to revive the application.[5]

This petition lacks the showing required by periods (1), (2) and (3).

With regards to items (1) and (2), petitioner has provided no basis supporting a showing of unavoidable delay. The statements in the petition again appear to be simply petitioner's interpretation of communications with the examiner and an argument as to why the invention is patentable.

As petitioner has provided no basis for a showing of unavoidable delay, the petition must be dismissed.

Petitioner may wish to consider utilizing the services of a registered patent attorney or agent. The USPTO cannot recommend any particular attorney or agent, or aid in the selection of an attorney or agent, as by stating, in response to inquiry that a named patent attorney, agent, or firm, is "reliable" or "capable." The USPTO maintains a directory of registered patent attorneys and agents at https://oedci.uspto.gov/OEDCI/.

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[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).
[5] See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

Petitioner may also receive further information by calling the Inventor's Assistance Center at 1-800-PTO-9199.

With regards to item (3), petitioner was informed in the decision mailed on January 18, 2008, that any request for reconsideration must be filed within two (2) months from the mail date of the decision, and that extensions of time were available under 37 CFR 1.136(a). The subject paper requesting reconsideration was filed on March 10, 2009, over one (1) year after the decision was mailed on January 18, 2008, and after the expiration of the extendable period for reply to the aforementioned decision on petition.

As such, petitioner must explain why the subject renewed petition should not be dismissed out of hand for being untimely. In future filings, petitioner should ensure that any renewed petition is filed within the time period for reply set forth in the decision on petition or other Office communication.

Further, any renewed petition under 37 CFR 1.137(a) must provide a documented showing as to why the entire delay, from the date a reply to the Office action mailed on October 22, 2002, until the date a grantable petition was filed, is unavoidable.

As petitioner has provided no explanation of the extended period of delay in filing a renewed petition, the petition must be dismissed.

ALTERNATIVE VENUE

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

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

the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $810.00 for a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW May-09

CLEON L. GRIFFITHS
10080 WEST 8TH PLACE
LAKEWOOD CO 80215

MAILED

MAY 06 2009

OFFICE OF PETITIONS

In re Application of :
Cleon Louis Griffiths :
Application Number: 09/825483 : ON PETITION
Filing Date: 04/03/2001 :
For: SECURE CONDOM :

This is a communication in response to the paper filed on March 26, 2009.

The petition is dismissed for the reason stated below.

A proper petition should be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[1]

The application became abandoned on November 23, 2002, for failure to timely file a proper response to the Office action stating that the prior reply appeared to be a *bona fide* attempt at a reply, but was insufficient, which set a one (1) month shortened statutory period for reply. A response was received on March 18, 2003, but was untimely. On November 5, 2003, an Office letter was mailed stating that the reply filed on March 18, 2003, was untimely, and that extensions of time were required. On November 18, 2003, Notice of Abandonment was mailed. A petition under 37 CFR 1.137(a) was filed on December 17, 2007. On January 18, 2008, the petition was dismissed.

On March 10, 2009, a letter was filed, addressed to the undersigned Petitions Attorney, whereby petitioner *pro se* states that he wishes to provide additional information concerning the circumstances at the time the application was filed. On March 19, 2009, a decision dismissing the petition was mailed.

At the outset, the petition cannot be considered on the merits because it is not signed. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a

[1] 37 CFR 1.181(f).

registered patent attorney or all of the inventors in an application. No signature of the inventor *pro se* is present on the papers filed on March 26, 2009.

Additionally, petitioner has not presented any arguments in support of a finding of unavoidable delay.

A properly-signed petition must be submitted if petitioner wishes to pursue revival of the application.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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
DIW Aug-09

CLEON L. GRIFFITHS
10080 WEST 8TH PLACE
LAKEWOOD CO 80215

MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Cleon Louis Griffiths	:	
Application Number: 09/825483	:	ON PETITION
Filing Date: 04/03/2001	:	
For: SECURE CONDOM	:	

This is a decision on the twice renewed petition under 37 CFR 1.137(a) filed on May 28, 2009, to revive the above-identified application.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The application became abandoned on November 23, 2002, for failure to timely file a proper response to the Office action stating that the prior reply appeared to be a *bona fide* attempt at a reply, but was insufficient, which set a one (1) month shortened statutory period for reply. A response was received on March 18, 2003, but was untimely. On November 5, 2003, an Office letter was mailed stating that the reply filed on March 18, 2003, was untimely, and that extensions of time were required. On November 18, 2003, Notice of Abandonment was mailed. A petition under 37 CFR 1.137(a) was filed on December 17, 2007. On January 18, 2008, the petition was dismissed. On March 10, 2009, a letter was filed, addressed to the undersigned Petitions Attorney, whereby petitioner *pro se* states that he wishes to provide additional information concerning the circumstances at the time the application was filed. In response, on March 19, 2009, a decision was mailed stating that the paper filed on March 10, 2009, was treated as a renewed petition under 37 CFR 1.137(a), and that the petition was again dismissed. An unsigned paper was filed on March 26, 2009. On May 6, 2009, a letter in response to the unsigned petition was mailed.

On May 28, 2009, the subject twice renewed petition was filed. Petitioner asserts that the delay in filing the required reply was due to the examiner informing applicant "that there was nothing patentable … in violation of the Patent Office rule 35 USC 282 which states that the patent office personnel must not express any opinion about the patentability or unpatentability of any claim in any US patent."

STATUTE AND REGULATION

35 U.S.C. § 133 states that:

> 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.

37 CFR 1.113 states in pertinent part that:

> (a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's or patent owner's response is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the response to a final rejection or action must comply with any requirements or objections to form.

37 CFR 1.135 states in pertinent part:

> (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.

37 CFR 1.137(a) provides:

Unavoidable. Where the delay in reply was unavoidable, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to this paragraph. A grantable petition pursuant to this paragraph 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 abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a Nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. 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 § 1.17(l);

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

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

OPINION

The showing of record does not rise to the level of unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable," 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[2] 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.[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

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[1] 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).

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

[3] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(a):

(1) The delay in reply that originally resulted in abandonment;
(2) The delay in filing an initial petition pursuant to § 1.137(a) to revive the application; and
(3) The delay in filing a *grantable* petition pursuant to § 1.137(a) to revive the application.[5]

This petition lacks the showing required by periods (1), (2) and (3).

With regards to item (1) and (2), petitioner has provided no basis supporting a showing of unavoidable delay. The statements in the petition again appear to be simply petitioner's interpretation of communications with the examiner and an argument as to why the invention is patentable.

Accordingly, the showing of record is that the delay occurred because of petitioner's misunderstanding of the patent prosecution process. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their

---

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).
[5] See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

A review of the record indicates that the delay in this case is due to petitioner's lack of awareness of USPTO rules and procedures.

As noted in MPEP 711.03(c):

> 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.[6] 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 appeal, 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... 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 PTO employees; or (B) the PTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

In fact, it would appear that with respect to item (1), petitioner intentionally abandoned the application. See Petition filed March 26, 2009, page 1: which states "At this stage of the game, I figured that I would never get a patent, so I quite frankly gave up on the idea."

In this regard, it is noted that petitioner states that he did not file the required reply because he did not believe the invention was patentable. Petitioner states "The fact of the matter is that if [the examiner] had not told me there was nothing patentable, I would have sent in [the required reply]."

---

[6] 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).

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

The showing of record does not suggest a finding of unavoidable delay, as petitioner clearly did not comply by 37 CFR 1.135 by diligently prosecuting the application to avoid abandonment. Rather, petitioner's statement suggests that petitioner decided to abandon prosecution of the application because petitioner had concluded that further prosecution would be fruitless. Such a showing suggests that the delay was not unavoidable, but was intentional. As stated in MPEP 711.03(c), where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).[8] In this regard petitioner, not the Office, is responsible for the prosecution of petitioner's patent application.

As stated in MPEP 711.03(c), a delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

---

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

In the petition filed on May 28, 2009, petitioner states that he "pretty well (*sic*) gave up on ever getting a Patent since the person who could patent it decided that there was nothing patentable." Petitioner further states that after he visited his brother, he decided once again to pursue a patent in this application. For this reason, the showing of record is that the delay resulted not from unavoidable delay, but from a change in circumstances.

MPEP 711.03(c) states, in pertinent part, that a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

With regards to item (3), above, petitioner has not explained the lengthy delay in responding to the petition filed on January 18, 2008, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained, and a renewed petition was not filed until March 10, 2009, over a year later. In the decision of March 19, 2009, petitioner was asked to explain why this period of delay should be considered as unavoidable, but no explanation has been provided. Rather, petitioner has presented several petitions and papers, dated December 17, 2007, March 10, 2009, March 26, 2009, and May 28, 2009, all arguing essentially that the delay was due to the actions of the examiner.

As stated *supra*, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.

Further, in regards to petitioner's assertion that the examiner improperly stated that "there was nothing patentable in my application," MPEP 1701 states that, in pertinent part, that public policy demands that every employee of the United States Patent and Trademark Office (USPTO) refuse to express to any person any opinion as to the validity or invalidity of, or the patentability or unpatentability of any claim in any U.S. **patent**. (emphasis added). See also 35 U.S.C. 282.

In this regard, petitioner is confusing an issued patent with an application for patent. While every patent is presumed to be valid,[9] and Office personnel may not express an opinion to the validity or invalidity of a U.S. patent, no U.S. patent has been issued in this application. Rather, an examiner must examine the application and make a determination as whether or not the applicant is entitled to patent. To this end, 35 USC 101 specifies what inventions are patentable, and 35 U.S.C. 102 and 103 stipulate the conditions for patentability. 35 USC 131 states that the Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

Accordingly, the showing of record is that applicant delayed filing a renewed petition because of petitioner's misunderstanding of the rules, laws, and procedures concerning practice before the Office. As such, the showing of record is that the delay was not unavoidable.

In summary, this application cannot be revived under either 37 CFR 1.137(a) or (b) because of applicant's intentional delay.

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

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

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

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

[9] 35 U.S.C. 282 (first sentence).

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WILMER CUTLER PICKERING
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60 STATE STREET
BOSTON, MA 02109

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Agrawal et al.	:	
Application No. 09/825,489	:	
Filed: April 3, 2001	:	ON PETITION
Attorney Docket No.	:	
047508.514 US2 (HYZ-075)	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **dismissed**.

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

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.
>
> The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The instant pending nonprovisional application was filed on April 3, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/194,343, which was filed on April 3, 2000, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by

[1] *Note* 37 CFR 1.121

reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks

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

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Agrawal et al.	:	
Application No. 09/825,489	:	
Filed: April 3, 2001	:	ON PETITION
Attorney Docket No.	:	
047508.514 US2 (HYZ-075)	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/194,343, which was filed on April 3, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1635 for appropriate action on the substitute amendment submitted October 6, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/194,343.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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FEB 2 6 2002
PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
MAR 0 7 2002
Technology Center 2100

Applicants: G.T. Barker et al. Attorney Docket No.: VIGL116340

Application No.: 09/825,506 Group Art Unit: 2152

Filed: April 3, 2001 Examiner: M. Rinehart

Title: SYSTEM AND METHOD FOR PROVIDING CONFIGURABLE SECURITY MONITORING UTILIZING AN INTEGRATED INFORMATION SYSTEM

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102

Seattle, Washington 98101

February 19, 2002

RECEIVED
MAR 1 8 2002
DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TO THE COMMISSIONER FOR PATENTS:

Applicants request that the above-identified application be made special for accelerated examination according to 37 C.F.R. § 1.102(b) as an invention for countering terrorism.

The above-identified application relates to a system and method for integrating a variety of information sources from monitoring devices at a common central server. Based on the information from the monitoring devices, and following internal rules, the central server is capable of detecting when input data from a monitoring device creates an exception to one of the internal rules. Based on an evaluation of the input data and internal rules, the central server generates output in the form of communication to one or more authorized users through a variety of communication mediums and devices.

The current application has significant practical application to security monitoring and contributes to countering terrorism by providing an integrated system for monitoring multiple input streams from monitoring devices such as security monitoring devices. These security monitoring devices include, but not limited to, biometric sensors, video capture and video image recognition devices, metal detectors, motion detectors, ingress and egress detectors, and detectors of trace materials or biological contaminants, all of which are now urgently needed for use in airports, government buildings and other secure facilities, as well as important public events. Using the integrated system described and claimed in the present application will

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1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

enhance the ability of law enforcement officials, security agencies, and other governmental bodies to more effectively and efficiently provide public safety and security.

Applicants enclose the petition fee required under 37 C.F.R. § 1.17(h) in the amount of $130.00, our Check No. 136226.

Accordingly, the granting of this petition and an early Office Action on the merits of the application are respectfully requested.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS[PLLC]

Mauricio A. Uribe
Registration No. 46,206
Direct Dial No. 206.695.1728

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to the Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202, on the below date.

Date: Feb. 20, 2002 Lori A. Lewis

MAU/TSP:lal

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Paper No. 6

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MAIL

APR 1 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Geoffrey T. Baker et al.)
Application No. 09/825,506)
Filed: April 3, 2001)
For: SYSTEM AND METHOD FOR PROVIDING CONFIGURABLE SECURITY MONITORING UTILIZING AN INTEGRATED INFORMATION SYSTEM)

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

This is a decision on the petition to make special filed February 26, 2002. In light of the content of the petition, it will be treated first under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

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 providing an integrated information system having at least one monitoring device which obtains monitoring device data. "Monitoring device data" is not "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 activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State" as indicated above

nor are they necessarily intended to intimidate a population or influence a government.

Although it can be said that monitoring for certain monitoring device data would limit acts of terrorism, the method and system disclosed do not specifically teach monitoring for terrorists or potential terrorist acts (e.g. monitoring for trace materials or biological contaminants or implementing "rules" which notify a user of a terrorist or potential terrorist act). Furthermore, implementing the "rules" for evaluating monitoring device data, and the subsequent enforcement of the outcome of evaluating the "rules", with regard to terrorism or terrorist acts has not been disclosed. It appears that the specification is silent with regard to the implementation of the invention with respect to identifying terrorism or terrorist acts, thereby preventing terrorism or terrorist acts. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Geoffrey T. Barker	: DECISION ON REQUEST FOR
Patent Number	: 7627665	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/825,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **695** 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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,613,040	2003-09-02	09/825,516	2001-04-03	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John R. Ross, III/	Date (YYYY-MM-DD)	2008-03-11
Name	John R. Ross, III	Registration Number	43060

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6613040
Issue Date: September 2,2003
Application No. 09825516
Filed: April 3,2001
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed March 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

OIPE JC48
OCT 0 1 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/825,522	04/02/2001	Antonin de Fougerolles	15966-747 (Cura-247)

CONFIRMATION NO. 9768

FORMALITIES LETTER

OC000000006132113

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111

Date Mailed: 05/31/2001

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 1 - ATTORNEY/APPLICANT COPY

RECEIVED
JUN 0 4 2001
MINTZ LEVIN, BOSTON
PATENT DOCKET DEPT.

10/04/2001 HNOOR1 00000080 09825522
'02 FC:105 130.00 OP

Express Mail Label No.: EK005146775US
Date of Deposit: October 1, 2001

OCT 01 2001 JC48 PATENT & TRADEMARK OFFICE

Attorney Docket No. 15966-747 (CURA 247)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	deFougerolles *et al.*		
ASSIGNEE :	CURAGEN CORP.		
SERIAL NUMBER :	09/825,522	EXAMINER :	Not Yet Assigned
FILING DATE :	April 2, 2001	ART UNIT :	1743
FOR :	METHODS OF IDENTIFYING LIGANDS USING DIFFERENTIAL GENE EXPRESSION		

BOX Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL

In response to the Notice of Missing Parts mailed on May 31, 2001, attached please find:

1. Response to Notice to File Missing Parts (1 pg.);
2. Copy of Notice to File Missing Parts (1 pg.);
3. Combined Declaration and Power of Attorney executed by A. de Fougerolles, J. Carulli and V. Kotelianski (4 pgs.);
4. Combined Declaration and Power of Attorney executed by A. Hsu (4 pgs.);
5. Combined Declaration and Power of Attorney executed by C. Green (4 pgs.);
6. Petition for Extension of Time (1 pg.);
7. One check (#10354) in the amount of $130.00 in payment of the surcharge fee; and check (# 10383) in the amount of $400.00 to cover a two-month extension of time; and,
8. Return Postcard.

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned collect at telephone (617) 542-6000.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Attorney Reference No. 15966-747 (CURA 247). Should any questions or issues arise concerning this application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
Cynthia Kozakiewicz, Reg. No. 42,764
Attorneys for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

October 1, 2001

TRA 1571299v1

Express Mail Label No.: EK005146775US
Date of Deposit: October 1, 2001

OIPE JC48
OCT 0 1 2001
PATENT & TRADEMARK OFFICE

Attorney Docket No. 15966-747 (CURA 247)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	deFougerolles *et al.*		
ASSIGNEE :	CURAGEN CORP.		
SERIAL NUMBER :	09/825,522	EXAMINER :	Not Yet Assigned
FILING DATE :	April 2, 2001	ART UNIT :	1743
FOR :	METHODS OF IDENTIFYING LIGANDS USING DIFFERENTIAL GENE EXPRESSION		

BOX Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

In response to the Notice To File Missing Parts mailed May 31, 2001, Applicants submit herein an executed Combined Declaration and Power of Attorney (3 counterparts), payment of the surcharge fee ($130.00) set forth in 37 C.F.R. §1.16(e) and a Petition for a Two-Month Extension of Time. The response is due on or before October 1, 2001. Applicants believe no additional filing fees are due.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Attorney Reference No. 15966-747 (CURA 247). Should any questions or issues arise concerning this application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
Cynthia Kozakiewicz, Reg. No. 42,764
Attorneys for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

October 1, 2001

TRA 1571266v1

3. ☒ Applicants believe that no fee is due. However, the Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to Deposit Account No. 50-0311, Ref. No. 15966-747 (CURA-247).

Respectfully submitted,

Date: June 15, 2001

Ivor R. Elrifi, Reg. No. 39,529
Naomi S. Biswas, Reg. No. 38,384
Attorney for Applicants
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

TRA 1528535v1

UNITED STATES DEPARTMENT OF COMMERCE
Pat nt and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/825,537	19-Jun-01	MASOOD GARAHI, ET AL	ODS/025

Title: SYSTEMS AND METHODS FOR PLACING PARIMUTUEL WAGERS ON FUTURE EVENTS

Art Unit	Paper Number

Correspondence Address:
JAMES A. LEIZ
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10020

PATENT & TRADEMARK OFFICE
MAILED
MAR 26 2002
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

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

James Leiz
Fish & Neave
1251 Avenue of the Americas
N.Y., N.Y. 10020

In re: Masood Garahi et al.
Serial Number: 09/825537
Filed: 2 April 2001
Docket no.: ODS/025

DECISION ON REQUEST
FOR RETROACTIVE LICENSE
UNDER 37 CFR 5.25

Title: Systems and Methods for Placing Parimutual Wages on Future Events

Decision: Denied

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition filed 9 June 2001 is Denied at this time because the petition is defective in that the requirement(s) set forth in 37 C.F.R. 5.25(a) has(have) not been satisfied. To wit:

37 CFR 5.25(a)(iii) has not been satisfied because the individual who had the authority and filed the application in Malaysia has not declared that the application was filed throught error and without deceptive intent. Also, an explanation on why the phone call (Petition page 2, 3rd para.) was not heeded is needed.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Jeffrey L. Gellner
Assistant Patent Examiner, Group 3643
(703) 305-0053

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

James A. Leiz
FISH & NEAVE
1251 Avenue of the Americas
New York, New York 10020

In re:	Masood Garahi et al	:	DECISION ON REQUEST
Serial No.:	09/825,537	:	UNDER 37 CFR 5.25
Filing date:	02 April 2001		
Docket No:	ODS/025		

Title: SYSTEMS AND METHODS FOR PLACING PARIMUTUEL WAGERS ON FUTURE EVENTS

In view of the communication(s) filed 04 September 2002, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
Malaysia	04 April 2001

Approved:

Andrea M. Valenti

Andrea M. Valenti
Patent Examiner
Group 3643
(703) 305-3010

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/825,537	6/19/01	MASOOD GARAHI, ET AL	ODS/025

Title: **SYSTEMS AND METHODS FOR PLACING PARIMUTUEL WAGERS ON FUTURE EVENTS**

Art Unit	Paper Number

Correspondence Address:
JAMES A. LEIZ
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10020

PATENT & TRADEMARK OFFICE
MAILED
APR 2 2003
LICENSING & REVIEW

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

License Number: 530,345
Grant Date: 02-Apr-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

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

This license is granted under 37 CFR 5.15(a).

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

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

LICENSE FOR FOREIGN FILING

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

UNITED STATES 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
OCT 23 2007
OFFICE OF PETITIONS

In re Application of	:	
GARAHI et al.	:	DECISION ON PETITION
Application No. 09/825,537	:	
Filed: 04/02/2001	:	
Attorney Docket No. ODS/025	:	

This is a decision on the petition under 37 CFR 1.181, filed July 2, 2007, to withdraw the holding of abandonment in the above-identified application.

On February 2, 2007, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review ("decision"), indicating that a Pre-Appeal Brief conference was held and that the application remained under appeal because there was at least one actual issue for appeal. The decision stated that applicants were required to submit an appeal brief in accordance with 37 CFR 41.37 and that the time period for filing the appeal brief would be reset to be one month from the mail date of the decision, or the balance of the two-month time period running from the receipt of the notice of appeal, *whichever* was greater. The decision further indicated that the time period for filing of the appeal brief was extendable under 37 CFR 1.136 based upon the mail date of the decision or the receipt date of the notice of appeal, as applicable. On May 18, 2007, the Office mailed a Notice of Abandonment, stating that the application was abandoned in view of applicants' failure to file a reply to the Office letter mailed on February 2, 2007. On July 2, 2007, applicants filed the present petition.

Applicants assert that the Examiner mailed the Notice of Abandonment in error and request that the Office withdraw the holding of abandonment. Specifically, applicants state that the final due date for filing the appeal brief, with a request for an extension of time for response within the fifth month, is August 2, 2007. Furthermore, applicants argue the appeal brief filed on July 2, 2007, accompanied by a request for an extension of time for response within the fourth month and the requisite fees, is timely.

Upon a review of the record, applicants' assertions are correct. As previously stated, the decision set a one-month extendable period from February 2, 2007 (the mail date of the decision), for applicants to submit an appeal brief. Accordingly, applicants were permitted to extend the period for response up to five months under 37 CFR 1.136(a) (i.e. on or before August 2, 2007).

After a further review of the record, the Office concurs with applicants that the appeal brief of July 2, 2007, accompanied by the request for a four-month extension of time, is timely filed. Accordingly, the Notice of Abandonment was mailed in error.

The petition to withdraw the holding of abandonment is **granted**. The application is restored to pending status in view of the fact that a reply was timely filed on July 2, 2007.

This matter is being referred to Technology Center Art Unit 3692.

Telephone inquiries concerning 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

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

NOV 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Mazen CHMAYTELLI et al.	:	
Application No. 09/825,588	:	DECISION ON PETITION
Filed: April 03, 2001	:	
Attorney Docket No. **010042**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 02, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 30, 2009, 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 01, 2009 .

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 $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of January 30, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 extension of time fee submitted with the petition on October 02, 2009 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 the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2617 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
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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COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :

Anthony Aquila et al. :
Application No. 09/825,604 : DECISION ON PETITION
Filed: April 3, 2001 : TO WITHDRAW
Attorney Docket No. 22606-05797 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 2006.

The request is **APPROVED**.
A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 00758. 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).

Laura A. Majerus signed the request on behalf of all attorneys of record.

Laura A. Majerus and all attorneys/agents associated with application have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the fist copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Anthony Aquila
5575 Monte Verde Street
Santa Rosa, CA 95409

Cc : Daniel N. Yannuzzi Esq.
Morrison & Forester
12531 High Bluff Drive, Suite 100
San Diego, CA 92130

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
09/825,604	04/03/2001	Anthony Aquila	22606-05797

CONFIRMATION NO. 3275

OC000000020595207

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 09/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

UNITED STATES 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

APR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Yamamoto et al.
Application No. 09/825,607
Filed: April 3, 2001
Attorney Docket No.: 16869P025300

: ON PETITION

This is a decision on the petition under 37 CFR 1.55(c), filed June 1, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign JP2001-053472 filed February 28, 2001.

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.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(I), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on April 3, 2001, which is after November 29, 2000 and within 12 months of February 28, 2001 (the filing date of the foreign application to which benefit is now being claimed). On June 1, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $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)-(d) is **granted**.

A Corrected Filing Receipt which reflects the above-noted foreign application accompanies this decision on petition.

This application is being forwarded to Technology Center 2100, Art Unit 2188 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Charlema R. Grant at (571) 272-3215.

Charles Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Commissioner for Patents
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P.O. Box 1450
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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of :
Sharan, et al. :
Application No. 09/825,613 : ON PETITION
Filed: April 3, 2001 :
Attorney Docket No. 303.930US4 :
For: METHOD FOR PECVD DEPOSITION
OF SELECTED MATERIAL FILMS

This is a decision on the petition under 37 CFR 1.181, filed February 28, 2006 (certificate of mailing date February 22, 2006) requesting that the Office withdraw the holding of abandonment of the above-identified application. In the alternative, petitioners request revival under 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision on Appeal within two months of the December 30, 2005 decision. A Notice of Abandonment was mailed on January 11, 2006.

Petitioners argue that the application did not become abandoned because a RCE and amendment were filed on February 28, 2006 (certificate of mailing date February 22, 2006), which was within the two month period for action. The correspondence is present in the application file.

The filing of a RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action, will result in the finality of the rejection or action being withdrawn and the submission being considered. Pursuant to 37 CFR 1.114 , a RCE and amendment with new claims is a proper follow-up submission, if made within two months of the Board decision.

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. It is unnecessary to address the moot petition under 37 CFR 1.137(b), which was filed in the alternative.

Accordingly, the application file will be forwarded to Technology Center A.U. 2829 for further examination.

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

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

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Paper No. 6

Lahive & Cockfield
28 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Roberto Ciaff :
Application No. 09/825,618 : ON PETITION
Filed: April 3, 2001 :
Attorney Docket No. FHW-076 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers 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.

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

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

Retta Williams

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

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ALEXANDRIA, VA 22313-1450
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of
Oz Ran, et al.
Application No. 09/825,628
Filed: April 3, 2001
Attorney Docket No. 5079P006

ON PETITION

This is a decision in response to the petition, filed February 27, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed December 28, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 29, 2007. A Notice of Abandonment was mailed on September 12, 2007. On February 27, 2008, the present petition was filed.

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 Oren Reches appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Reches, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received February 27, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: OREN RECHES
HADAFINA STREET 13
ZORAN, ISRAEL 42823

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. _____

Marc V. Richards
BRINKS HOFER GILSON & LIONE
PO Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of
Michael WETZER
Application No. 09/825,633
Filed: April 3, 2001
Attorney Docket No. 10022-28

ON PETITION

This is a decision on the petition, filed April 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 28, 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 B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2125 for processing of the request for continued examination under 37 CFR 1.114 and for

---

[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).

consideration of the concurrently filed Amendment to the specification and Information Disclosure Statement.

Frances Hicks

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 Patent No. 6,738,748 Michael Wetzer Issue Date: May 18, 2004 Application No. 09/825,633 Filed: April 3, 2001 Atty Docket No. 10022-28	LETTER REGARDING PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is in response to the "NOTICE OF POSSIBLE PTA ERROR," filed June 28, 2004, pursuant to patentee's duty of candor and good faith to the Office. Therein, it is stated that assignee believes that the patent term extension may include too many days.

The request for reconsideration of the patent term adjustment (PTA) 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 three hundred seventeen **(317)** days.

On May 18, 2004, the application matured into US Patent No. 6,738,748 with a revised patent term adjustment of 742 days. Assignee states no basis for this request for reconsideration.

Nonetheless, a review of the application history reveals that the PTA of 742 days is incorrect. As of the mailing of the notice of allowance, the application was entitled only to a patent term adjustment of 142 days for Office delay in mailing the first Office action, a notice of allowance under 35 U.S.C. 151. See § 1.702(a)(1) and § 1.703(a)(1). The application was filed on April 3, 2001. The Office first mailed a notice of allowance under 35 U.S.C. 151 on October 23, 2002, fourteen months and 142 days later. An additional period of adjustment of 366 days associated in PAIR with "MAIL FORMAL DRAWINGS REQUIRED" was entered in error (see line 15). There is no basis for this additional adjustment.

Moreover, a review of the application history reveals that pursuant to 37 CFR 1.704(c)(10) additional periods of reduction should have been entered. 37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in

which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

In this instance, after the mailing of the notice of allowance on October 23, 2002, then applicant filed 2 papers, an information disclosure statement (IDS) on October 28, 2002, and a petition under 1.48 on January 28, 2003. The Office mailed a response to the IDS on December 24, 2002, and acted on the petition under § 1.48 on January 28, 2003. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment should have been reduced by the number of days, 58, beginning on the date the IDS was filed, October 28, 2002, and ending on the date an examiners amendment in response was mailed, December 24, 2002; and by the number of days, 1, beginning on the date a petition under 1.48 was filed, January 28, 2003, and ending on the date the Office took action in response, January 28, 2003.

After the mailing of the notice of allowance, there was an entry of an additional period of adjustment of 234 for Office delay in issuing the patent. See § 1.702(a)(4). Accordingly, the patent should have issued with a revised patent term adjustment of three hundred seventeen (317) days ((142 + 234) - 59)).

As this letter was submitted as an advisement to 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 Office thanks patentee 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 THREE HUNDRED SEVENTEEN (317) days.

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

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,738,748 B2

DATED : May 18, 2004

INVENTOR(S) : Wetzer

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 (742) days

Delete the phrase "by 742" and insert – by 317 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

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

MAIL

APR 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Ting Sun	:	
Application No. 09/825,677	:	DECISION ON REQUEST TO
Filed: April 3, 2001	:	WITHDRAW AS ATTORNEY
For: LOW-PASS FILTER USABLE WITH	:	
CALLER ID DEVICE	:	

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

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

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent.
All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

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C/O Intellevate
P.O. Box 52050
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
TRACY D. MALLORY	:	DECISION ON APPLICATION
Application No. 09/825,708	:	FOR PATENT TERM ADJUSTMENT
Filed: 04/04/2001	:	
Atty Docket No. 033-051001	:	

This is a decision on the "REQUEST TO CORRECT PATENT TERM ADJUSTMENT," filed November 20, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 736 days to 780 days.

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

On September 6, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 736 days. On November 20, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction pursuant to 37 CFR 1.704(c)(8) of 44 days.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicants' delay is correct.

[1] The Office records show that the issue fee was also received on November 20, 2007.

Applicants assert:

> In the detailed calculation of the PTA on the Patent Application Information Retrieval system (a copy of which is attached herewith), it is indicated that the PTA was reduced by 44 days in connection with a timely filed Information Disclosure Statement that was filed on January 10, 2007. This IDS was filed before Final Action and a $180 fee was paid along with the IDS. The filing of an IDS before final action does not constitute a failure to engage in reasonable efforts to conclude prosecution of the application. …

Petition, 11/20/07, p. 1.

Applicants' assertion is without merit. The fact that applicants submitted the IDS, accompanied by the fee set forth in § 1.17(p), on January 10, 2007, before the mailing date of any of final action under § 1.113 or notice of allowance under § 1.311 is irrelevant in determining patent term adjustment.[1]

Applicants were properly assessed a delay under 37 CFR 1.704(c)(8) for submission of a supplemental reply or paper after a reply had been filed, without the express request of the examiner.

Pursuant to 37 CFR 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly

---

[1] 37 CFR 1.97(c) states:

> An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
>
> (1) The statement specified in paragraph (e) of this section; or
>
> (2) The fee set forth in § 1.17(p).

> 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[.]

It is undisputed that applicants submitted an IDS on January 10, 2007, after filing an initial response on November 27, 2006, to the nonfinal Office action. The record does not support a conclusion that the examiner expressly requested the IDS. Further, a review of the IDS, filed January 10, 2007, reveals that applicants did not include a statement under 37 CFR 1.704(d).[4] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

In accordance with 37 CFR 1.704(c)(8), the period of adjustment was correctly reduced by 44 days, the number of days beginning on the day after the date the initial reply was filed, November 28, 2006, and ending on the date that the IDS was filed, January 10, 2007.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance will remain **736 days**.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent.

---

[4] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6472199	2002-10-29	09825749	2001-04-04	30511

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gregory J. Skoch/	Date (YYYY-MM-DD)	2006-12-05
Name	Gregory J. Skoch	Registration Number	48267

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6472199
Issue Date: October 29,2002
Application No. 09825749
Filed: April 4,2001
Attorney Docket No. 30511

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

This is a decision on the electronic petition, filed December 5,2006 ,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 5,2006 . 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 02-02

Paper No. 6

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

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MAR - 7 2002

OFFICE OF PETITIONS

In re Application of :
Trachewsky et al. :
Application No. 09/825,775 :
Filed: 4 April, 2001 :
Att'ys Docket No. 42140/RJP/E264 :

ON PETITION

Receipt is acknowledged of the petition filed on 8 January, 2002, requesting that the "Notice of Incomplete Reply" mailed on 11 October, 2001, be withdrawn.

The petition is dismissed.

The application was filed on 4 April, 2001. Accordingly, on 31 July, 2001, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers because the drawings as filed did not have appropriate margins. In response, on 31 August, 2001, petitioners filed formal drawings. On 11 October, 2001, however, Initial Patent Examination Division mailed a Notice of Incomplete Reply (Nonprovisional) stating that Figures 70a and 70b described in the specification appeared to have been omitted. In response, on 8 January, 2002 (certificate of mailing date 26 October, 2001), the present petition was filed.

Petitioners assert that no drawing figures were omitted, that rather than Figures 70a and 70b the drawings correctly contained a Figure 70, and that a preliminary amendment had been submitted with the original application papers removing the references in the specification to Figures 70a and 70b and replacing them with a reference to Figure 70.

A review of the official file reveals that a preliminary amendment was filed with the application papers received on 4 April, 2001, which provided, in pertinent part:

> Please amend the specification as follows:
>
> Delete the paragraphs on Page 11, lines 11-19, and replace them with the following new paragraphs:
>
> -- Fig. 70 shows a VoIP system in accordance with the present invention.

...

It is noted, however, that the reference to Figures 70a and 70b appears on line 9 of page 11 rather than lines 11-19. Thus, the preliminary amendment did not delete the references to Figures 70a and 70b.

It is obvious from the petition that no drawings were actually missing on 4 April, 2001. Rather, the specification incorrectly referred to Figures 70a and 70b rather than Figure 70 as a result of the applicants' filing error. However, the "Notice" mailed on 21 September, 2001, was correct in stating that Figures 70a and 70b described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Petitioners should note that the "Notice to File Corrected Application Papers" is sent if the drawings are not acceptable for purposes of publication of the patent application.[1] The initial review of drawings for consistency with the specification may not occur until after drawings in compliance with 37 CFR 1.84 have been received.

The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

Petitioners should file a preliminary amendment correcting the references to Figures 70a and 70b in the specification prior to the first Office action to avoid confusion.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 4 April, 2001.

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

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[1] MPEP 608.02(a), 37 CFR 1.85.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG &
WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of

Gerald W. MILLS, et al
Application No. 09/825,786
Filed: April 4, 2001
Attorney Docket No. 723.035US1

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 June 27, 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 Suneel Arora on behalf of all attorneys of record associated with Customer Number 21186.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed July 9, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: GERALD W. MILLS
735 HAWSER STREET, NE
PALM BAY, FL 32907

cc: RICHARD W. WARNER
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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
09/825,786	04/04/2001	Gerald W. Mills	50741-000004/US

CONFIRMATION NO. 1321

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000027150292

Date Mailed: 12/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

COPY MAILED

AUG 2 4 2001

OFFICE OF PETITIONS

In re Application of
Hue
Application No. 09/825,815
Filed: April 4, 2001
Attorney Docket No.: 218.1001
For: AUTOMATED TOOL FOR DETECTION OF POTENTIAL RACE CONDITION

ON PETITION

This is a decision on the petition filed June 13, 2001 in response to the Notice to File Missing Parts of Nonprovisional Application ("Notice").

The application was filed April 4, 2001. On May 16, 2001, The Notice was mailed indicating that an oath or declaration and surcharge were required. The Notice also indicated that page 15 of the specification appeared to have been omitted from the application.

Petitioner argues that the application as deposited included 41 pages of specification, claims and abstract, including page 15, as indicated on the Office date-stamped return postcard, a copy of which petitioner has provided.

The original page 15 of the specification has not been located, however, in view of the evidence presented, the petition is **GRANTED**.

Since the original page 15 of the specification cannot be located in the Office, the duplicate copy supplied with the petition will be used for examination purposes.

Receipt is hereby acknowledged of the declaration and surcharge submitted June 25, 2001.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund has been requested from the Office of Finance, Refund Section.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of April 4, 2001.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2008

TO SPE OF : ART UNIT 2685

SUBJECT : Request for Certificate of Correction for Appl. No.09/825817patent no.6968197

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Patent adjustment term in the cover page does not apply in this approval.

Primary Examiner Duc Nguyen — SPE

2618 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

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

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APR 26 2002

OFFICE OF PETITIONS

In re Application of	:	
Matthew James Fischer and Tracy D. Mallory	:	
Application No. 09/825,851	:	DECISION GRANTING PETITION
Filed: April 4, 2001	:	
Attorney Docket No. 42145/RJP/E264	:	
Titile: METHOD OF PROVIDING SYNCHRONOUS TRANSPORT OF PACKETS BETWEEN ASYNCHRONOUS NETWORK NODES IN A FRAME-BASED COMMUNICATIONS NETWORK	:	

This is a decision on the petition filed January 9, 2002, requesting that the Notice of Omitted Items be vacated.

On April 4, 2001, the above-identified application was filed. On June 18, 2001, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers. On October 2, 2001, this Notice was withdrawn, and a corrected Notice of Omitted Items - Filing Date Granted (Notice) was mailed, stating that the application had been accorded a filing date of April 4, 2001, and advising applicant that Figures 70a - 70b, as described in the specification, appeared to have been omitted.

In response, on January 9, 2002, applicants filed the present petition and fee. The petition is further accompanied by a copy of applicants' postcard receipt acknowledging receipt of a Preliminary Amendment, a 219 page application, an executed declaration, and 101 sheets of formal drawings were received in the United States Patent and Trademark Office (Office) on April 4, 2001. A review of the Preliminary Amendment indicates that

the specification was amended so as to change Figures "70a - 70b" to Figure "70", which accurately describes the drawing as filed.

Upon review of the record, the Preliminary Amendment has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 4, 2001, included this Preliminary Amendment, and said Preliminary Amendment was subsequently misplaced in the Office. Therefore, the application, including an accurate description of Figure 70, was correct on filing and entitled to a filing date of April 4, 2001.

Accordingly, the petition is **GRANTED**.

The Notice mailed October 2, 2001 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. If the petitioner wishes to have the $130.00 petition fee refunded, he should submit a request for refund to the Office of Finance. A copy of this decision should accompany any such request.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 4, 2001, using the Preliminary Amendment submitted on January 9, 2002 and indicating in the Office records that an accurate description of the drawings was included on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 28 2004

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

In re Application of: Solomon et al. Serial No.: 09/825,872 Filed: April 5, 2001 Attorney Docket No.: 044137-5029-US	: : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181 filed on May 4, 2004, requesting withdrawal of the holding of abandonment based 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 an Office action, setting a three month statutory time period for reply, to applicants on October 1, 2003. As the six months statutory period for response is up, this application is technically abandoned. A review of the file history shows that the Office action of October 1, 2003 was mailed to the incorrect correspondence address. In view of this error, this application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**.

This 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.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED Paper No. 4

FEB 2 7 2003

Technology Center 2600

McGuireWoods
Suite 1800
1750 Tysons Boulevard
Tysons Corner, McLean VA 22102-4215

In re Application of :
Stephen G. Batsell et al :
Application No. 09/825,878 :
Filed: April 5, 2001 :
For: **INFRARED TRANSMISSION COMMUNICATION SYSTEM** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on January 16, 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.

The signer of the petition, Andrew M. Calderon, is not appointed as an attorney or agent of record.

Accordingly, the instant request is **DISMISSED AS MOOT**.

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.

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

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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MAIL

MAR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McGuire Woods
Suite 1800
1750 Tysons Boulevard
Tysons Corner, McLean VA 22102-4215

In re application of:
Stephen G. Batsell, et al.
Application No. 09/825,878
Filed: April 5, 2001
For: MRP-BASED HYBRID ROUTING FOR MOBILE AD HOC NETWORKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on October 4, 2004

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

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

All of the attorneys/agents of record have been withdrawn.

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

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

cc: Mr. Marcel Jacques Jonassaint
TubroWave, Inc.
1501 North Technology Way, Suite 300
Orem, Utah 84097

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 1 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McGuireWoods
Suite 1800
1750 Tysons Boulevard
Tysons Corner, McLean VA 22102-4215

In re Application of
Stephen G. Batsell, et al.
Application No. 09/825,878
Filed: April 5, 2001
For: **MRP-BASED HYBRID ROUTING FOR MOBILE AD HOC NETWORKS**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as Attorney or Agent and Change of Address filed on October 4, 2004 and supplemented on February 3, 2005.

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

The paper filed February 3, 2005 evidences that a combined Statement under 3.73(b) and Power of Attorney by Assignee was originally filed on July 8, 2003 and received by the Patent and Trademark Office on that same date.

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

All Attorneys/Agents of record have been withdrawn.

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.

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

cc: Mr. Marcel Jacques Jonassaint, President
TurboWave, Inc.
1501 North Technology Way, Suite 300
Orem, Utah 84097

OIPE JC25
OCT 0 4 2004
PATENT & TRADEMARK OFFICE

IFW 2664

PTO/SB/83 (08-03)
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

Application Number	09/825,878
Filing Date	April 5, 2001
First Named Inventor	Stephen G. Batsell, et al.
Art Unit	Unassigned
Examiner Name	Unassigned
Attorney Docket Number	06060002AA

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

1. **Failure to pay attorney's fees and expenses associated with governmental filing fees.**
2. **Failure to notify attorneys of change of address and telephone number.**
3. **Failure to respond to attorney communications including return of telephone calls or written communications.**

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

☒ Firm *or* Individual Name	Mr. Marcel Jacques Jonassaint, President				
Address	TurboWave, Inc.				
Address	1501 North Technology Way, Suite 300				
City	Orem	State	Utah	ZIP	84097
Country	United States of America				
Telephone	801-225-3682	Fax	801-225-3683		

☒ This request is made on behalf of myself and
- ☒ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number

This request is enclosed in triplicate (including any attachments).

Name	Andrew M. Calderon		
Signature		Registration No.	38,093
Date	October 4, 2004		

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 are required 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
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Paper No. 7

Williams Morgan and Amerson
7676 Hillmont
Suite 250
Houston, TX 77040

COPY MAILED
NOV 1 9 2003
OFFICE OF PETITIONS

In re Application of :
Geoffrey Strongin, et al. :
Application No. 09/825,905 :
Filed: April 4, 2001 :
Attorney Docket No. 2000.050200/TT3965 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 6, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 1, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

This application is being forwarded to Technology Center Art Unit 2131 for examination in due course.

Marianne E. Morgan

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

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APR 28 2005

OFFICE OF PETITIONS

JAY L. CHASKIN
General Electric Company
3135 Easton Turnpike - W3C
Fairfield CT 06431

In re Application of
Serge Muller et al.
Application No. 09/825,910
Filed: April 4, 2001
Attorney Docket No.: 14XZ00098
Title: RADIOLOGICAL IMAGING DEVICE, METHOD AND PROGRAM OF CONTROL ASSOCIATED WITH THE DEVICE

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed December 7, 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 September 24, 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 December 25, 2002. A Notice of Abandonment was mailed June 24, 2003.

With the petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

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

The application file is being forwarded to Technology Center 2800 for further processing.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06122007

DATE : February 16, 2007

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction on Patent No.: 7133490 B2

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

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

Thank You For Your Assistance

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

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

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

Comments:

EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER
SPE

2882
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 8

KAMRAN KATTAHI
KELLY BAUERSFELD LOWRY & KELLEY LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

COPY MAILED

APR 04 2003

OFFICE OF PETITIONS

In re Application of
Udell, et al.
Application No. 09/825,920
Filed: April 3, 2001
Docket No. 40524-SGTI

DECISION ON PETITION

This is a decision on the petition filed December 27, 2002 (Certificate of Mailing dated December 20, 2002), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed May 9, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No substitute drawings having been received, the above-identified application became abandoned on July 10, 2001. The mailing of the instant decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted substitute drawings, paid the petition fee, and made the proper statement of unintentional delay under 37 CFR 1.137(b).

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

Cliff Congo
Petitions Attorney
Office of Petitions

OIPE JC177 JUL 0 6 2001 PATENT & TRADEMARK OFFICE

BOX MISSING PARTS
Section 5

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

	Complete if Known	
	Application Number	09/825,922
	Filing Date	5 April 2001
	First Named Inventor	David E. COMINGS
	Examiner Name	To Be Assigned
	Group Art Unit	1614
Total Number of Pages in This Submission **25**	Attorney Docket Number	1954-332

ENCLOSURES *(check all that apply)*

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

REMARKS:

SUBMITTED BY				Complete (if applicable)	
NAME AND REG. NUMBER	Stephen A. Saxe, Ph.D., Reg. No. 38,609				
SIGNATURE	Stephen A. Saxe	DATE	July 6, 2001	DEPOSIT ACCOUNT USER ID	

1954-332
SAS:lew

OIPE JC177
JUL 0 6 2001
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	**Box Missing Parts**
David E. COMINGS	)	
Serial No. 09/825,922	)	Attention: Applications Branch
Filed: 5 April 2001	)	

For: METHOD OF PROFILING GENES AS RISK FACTORS FOR ATTENTION DEFICIT HYPERACTIVITY DISORDER

RESPONSE TO NOTICE TO FILE MISSING PARTS

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to a Notice to File Missing Parts of Application under 37 CFR 1.53(b) dated May 7, 2001, response copy attached, a Declaration and Power of Attorney identifying the above-referenced application by Serial Number and Filing Date is being herewith submitted. Also attached is a check in payment of the following fees:

$ 65.00 (surcharge under 37 C.F.R. 1.16(e))
$ 65.00 TOTAL

Please charge any additional fees or credit any overpayment for the payment of the filing fee, any extra claims fees or the surcharge to deposit account number 02-2135. An additional copy of this letter is enclosed for that purpose.

Serial No. 09/825,922

The following documents are being submitted concurrently under separate cover:

- The formal drawings.
- Recordation coversheet w/Assignment

Respectfully submitted,

By Stephen A. Saxe

Stephen A. Saxe, Ph.D.
Attorney for Applicants
Registration No. 38,609
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 701-E, 555 13th Street, N.W.
Washington, D.C. 20004
Telephone: (202)783-6040

Enclosures

1954-332
SAS:lew

OIPE JC77
JUL 0 6 2001
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
	)	
David E. COMINGS	)	
	)	
Serial No. 09/825,922	)	Examiner: To Be Assigned
	)	
Filed: 5 April 2001	)	Group Art Unit: 1614
	)	

For: METHOD OF PROFILING GENES AS RISK FACTORS FOR ATTENTION DEFICIT HYPERACTIVITY DISORDER

09825922.070601

SUBMISSION OF FORMAL DRAWINGS

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Attached hereto are 11 sheets of formal drawings to replace the 10 sheets of informal drawings filed with the subject application.

Respectfully submitted,

By Stephen A. Saxe

Stephen A. Saxe, Ph.D.
Attorney for Applicants
Registration No. 38,609
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 701-E, 555 13th Street, N.W.
Washington, D.C. 20004
Telephone: (202)783-6040

Enclosures

OIPE JC1
JUL 0 6 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/825,922	04/05/2001	David E. Comings	1954-332

CONFIRMATION NO. 3812

FORMALITIES LETTER

OC000000006046359

6449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
555 13TH STREET, N.W.
SUITE 701, EAST TOWER
WASHINGTON, DC 20004

Date Mailed: 05/07/2001

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 missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 65.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

07/06/2001 TLUU11 00000180 09825922
01 FC:205 65.00 OP

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

COPY MAILED

NOV 17 2003

OFFICE OF PETITIONS

William E. Curry
Pollock, Vande Sande & Amernick, R.L.L.P.
P.O. Box 19088
Washington DC 20036-3425

In re Application of
Robert Devins, Paul Ferro, Peter LaFauci,
Kenneth Mahler and David Milton
Application No. 09/826,035
Filed: April 4, 2001
Attorney Docket Number: BUR920000154US1
Title of Invention: METHOD AND SYSTEM FOR LOGIC VERIFICATION USING MIRROR INTERFACE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 4, 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 statement of facts attest a copy of the application was Express Mailed to inventor LaFauci. Petitioner has also provided evidence that the mailing was received. All of the evidence provided in addition to the declaration of Maryann Luisi establishes inventor LaFauci refused 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.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Richard M. Kotulak
International Business Machines Corporation
Intellectual Property Law-Mail 972E
1000 River Road
Essex Junction, VT 05452

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSHUA R. SLAVITT, ESQUIRE
SYNNESTVEDT & LECHNER LLP
ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

MAILED

FEB 19 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,770,454	:
Issue Date: August 3, 2004	:
Application No. 09/826,045	:
Filed: April 4, 2001	:
Patentee: Sean M. Reilly et al	:

This is a decision on the petition, filed November 19, 2008, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED.**

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). ***Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).*** The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued August 3, 2004. The grace period for paying the first maintenance fee expired on August 4, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The petition is not considered to contain a proper statement of unintentional delay since the petition is signed by only one inventor. In accordance with 37 CFR 1.33(b)(4), all inventors must sign.

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

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

SEAN M. REILLY
12 WILSON DR.
SPARTA, N.J. 07871

UNITED STATES 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

MAY 07 2009

OFFICE OF PETITIONS

SEAM M. REILLY
C/O HOME HEALTH SCIENCE INC.
12 WILSON DRIVE
SPARTA NJ 07871

In re Patent No. 6,454,880 :
Issue Date: August 3, 2004 :
Application No. 09/826,045 : ON PETITION
Filed: April 4, 2001 :
Patentee(s): Sean M. Reilly et al :

REQUIREMENT FOR ADDITIONAL INFORMATION AND/OR FEE(S) DUE

A renewed petition under 37 CFR 1.378(c) was filed on March 11, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent. The petition was **not** accompanied by the $400.00 petition fee required in accordance with 37 CFR 1.17(f). Accordingly, no consideration on the merits can be given that petition until the required fee is received.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to submit the $400.00 petition fee. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

The response should include a cover letter entitled "Response to Requirement for Additional Information and/or Fee(s) Due."

At the end of the two-month period specified above, a decision will be rendered on the renewed petition under 37 CFR 1.378, including any supplemental information submitted in response to this Requirement for Additional Information. **Thereafter, no further reconsideration or review of this matter will be undertaken.**

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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEAN M. REILLY
C/O HOME HEALTH SCIENCE INC.
12 WILSON DRIVE
SPARTA NJ 07871

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 6,770,454
Issue Date: August 3, 2004
Application No. 09/826,045
Filed: April 4, 2001
Attorney Docket No. P24184-A USA

ON PETITION

This is a decision on the petition, filed March 19, 2009, and supplemented on May 5, 2009 and May 20, 2009, which is being treated under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under 37 CFR 1.378(c) the delayed payment of a maintenance fee for the above-identified patent.

The request to accept the delayed payment of the maintenance fee is **GRANTED**.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

The patent file is being referred to Files Repository.

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

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

COPY MAILED
MAY 19 2008
OFFICE OF PETITIONS

In re Application of	:	
Joseph E. Mcisaac et al	:	
Application No. 09/826,052	:	DECISION ON PETITIONS
Filed: April 3, 2001	:	
Attorney Docket No. 082192-0102	:	

This is a decision on the petition, filed April 25, 2008, 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). This is also a decision on the petition filed May 19, 2008 under 37 CFR 1.313 to withdraw the above application from issue after payament of the issue fee.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 3, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 petition under 37 CFR 1.313 is DISMISSED as Moot.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not accompanied by any of the above.

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-02

Paper No. 10

JOHN F. BRADY
TRANSGENOMIC, INC.
2032 CONCOURSE DRIVE
SAN JOSE CA 95131

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Gjerde, et al.
Application No. 09/826,055
Filed: 3 April, 2001
Attorney Docket No.: P-457

ON PETITION

This is a decision on the petition filed on 4 June, 2002, under 37 C.F.R. §1.53 requesting that pages 4 and 49 of the above-identified non-provisional application be accorded a filing date of 3 April, 2001.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited (via Express Mail Label No ET214484176US) on 3 April, 2001.

The application as filed consisted, *inter alia*, of 86 consecutively numbered pages written description (specification, claims and abstract) and 9 sheets of drawings.

The application coversheet also authorized the basic filing fee, which was charged.

The Office mailed on 18 March, 2002, a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" in which Petitioner was informed that pages 4 and 49 of the specification (description and claims) appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 4 June, 2002 (over a 13 May, 2002, certificate of mailing), a response with the instant petition, a copy of the Office-stamped filing receipt card, a copy a document purporting to be the entire application of document, including pages 4 and 49 of the specification (description and claims), a check in the amount of $130.00 in payment of the petition fee, and the required copy of the Notice.

The copy of the date stamped (3 April, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, 86 pages of specification, including claims, and nine sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that 86 pages of specification (description and claims), including pages 4 and 49, were filed on 3 April, 2001, and that the pages 4 and 49 were subsequently misplaced in the Office.

Accordingly, the petition is **granted**.[1]

The Notice mailed on 18 March, 2002, hereby is withdrawn to the extent that it addresses alleged omitted items pages 4 and 49 of the specification (description and claims).

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 3 April, 2001, using the 84 pages (1-3, 5-48, 50-86) filed on 3 April, 2001, and the pages 4 and 49 supplied on 4 June, 2002, with an indication on the PALM bib data sheet that 86 pages of the specification (description and claims) were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

[1] The petition fee ($130.00) is being refunded via Treasury check.

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

Terry B. Morris
Minerals Technologies Inc.
One Highland Avenue
Bethlehem PA 18017

COPY MAILED

JUN 06 2002

OFFICE OF PETITIONS

In re Application of
Donald Kendall Drummond
Application No. 09/826,062
Filed: April 4, 2001
Attorney Docket No. 96-006 D1

DECISION GRANTING-IN-PART PETITION

This is a decision on the petition filed March 27, 2002, requesting that the above-identified application be accorded a filing date of April 4, 2001, with four (4) sheets of drawings (Figures 1-4) as a part of the original disclosure.

On April 4, 2001, applicant filed the above-identified application. However, on January 28, 2002, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on April 4, 2001, describes drawings containing Figures 1-4; however, it appears the United States Patent and Trademark Office (Office) did not receive these drawings.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims, e.g., claims 21-23. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice of Incomplete Application" mailed January 28, 2002, was sent in error and is hereby vacated. The application is accorded a filing date of April 4, 2001.

The petition is granted to the extent that the application will be accorded the filing date of April 4, 2001, without the drawings containing Figures 1-4 as a part of the original disclosure of this application.

Because applicant has not requested a filing date of March 27, 2002 (the date the drawings containing Figures 1-4 were filed), the drawings of Figures 1-4 filed on March 27, 2002, will not be entered. Any request to accord the application a filing date of April 23, 2001, with the four (4) sheets of drawings as part of the original disclosure is by way of petition under 37 CFR 1.182. Any such petition must be filed with the $130.00 petition fee within **TWO (2) MONTHS** of the date of this decision to be considered timely. No extensions of time are available under 37 CFR 1.136(a).

Prior to the first Office action on the merits, applicant should file an amendment canceling all references to Figures 1-4 in the specification.

The application file is being returned to the Office of Initial Patent Examination for further processing with the filing date of April 4, 2001, and an indication in the Office records that "0" sheets of drawings were present on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Terry B. Morris
Minerals Technologies Inc.
One Highland Avenue
Bethlehem PA 18017

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of
Donald K. DRUMMOND
Application No. 09/826,062
Filed: April 4, 2001
Attorney Docket No. DN 96-006 D1

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition filed on February 22, 2005 to revive the above-identified application as unintentionally abandoned at no fault of the applicant, which is being treated as a petition under 37 CFR 1.137(b) to revive.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 29, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

A petition fee of $1,500 to revive an unintentional abandonment has been charged to applicant's Deposit Account No. 13-3639 as authorized in the petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 28, 2003 is accepted as having been unintentionally delayed.

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 1731 for appropriate action on the concurrently filed amendment.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey D. Messerly :
Application No. 09/826,070 : ON PETITION
Filed: April 4, 2001 :
Attorney Docket No. END-0736 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed May 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 16, 2005.

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a request for continued examination (RCE) is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to change any additional fees due, the $1,400 issue fee will be charged to Deposit Account No.10-0750.

Petitioner is advised that the issue fee paid on September 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

---

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

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

This matter is being referred to Technology Center AU 3731 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MAIL

JUN 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LOWE HAUPTMAN GOPSTEIN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria VA 22314

In re Application of
Biing-Seng Wu, et al.
Application No. 09/826,096
Filed: April 5, 2001
For: METHOD OF REDUCING FLICKERING AND INHOMOGENEOUS BRIGHTNESS IN LCD

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Request for Withdrawal of the Notice of Abandonment based on failure to receive an Office action filed June 4, 2003.

The petition is **DENIED**.

This application became abandoned due to failure to timely respond to the Office action. A Notice of Abandonment was mailed on March 11, 2004.

Petitioner has alleged non-receipt of the Office action. In the petition, the petitioner has provided a statement that the 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.

Pursuant to MPEP § 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.

Petitioner states that the Office action was not received and also references a docket log within

their petition. However, the petition does not comply with the requirements 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 file jacket and docket records and indicating that the office communication was not received.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the statement from the Practitioner as outlined above. The file is being forwarded to the file repository.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 9

LOWE HAUPTMAN GOPSTEIN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria VA 22314

In re Application of Biing-Seng Wu, et al. Application No. 09/826,096 Filed: April 5, 2001 For: METHOD OF REDUCING FLICKERING AND INHOMOGENEOUS BRIGHTNESS IN LCD	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the renewed Request for Withdrawal of the Notice of Abandonment based on failure to receive an Office action filed June 4, 2003 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed July 27, 2004. No fee is required.

This application became abandoned due to failure to timely respond to the Office action mailed June 4, 2003. A Notice of Abandonment was mailed on March 4, 2004.

Pursuant to MPEP § 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.

Petitioner, within their renewed request, has satisfied the requirements set forth above. Accordingly, the petition is **GRANTED.**

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

The application file is being returned to the examiner for update of the Office action as appropriate. From there, the application will be forwarded to the TC2600 Technical Support Staff for mailing of the updated Office action. The period for response will be set to run from the date of the new mailing.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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Law Office of Scott C Harris Inc
PO Box 1389
Rancho Santa Fe CA 92067

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OFFICE OF PETITIONS

In re Application of	:	
Andy Ming Lee, et al.	:	
Application No. 09/826,121	:	DECISION ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. ALORICA-002001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 5, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 5, 2009. Accordingly, the date of abandonment of this application is November 6, 2009. The Notice of Abandonment was mailed November 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/06

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/826148** No.: **6993085**

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: Corrections relate to typographical errors and donot change the scope of the claims.

10/23/06

M. G.
SPE

2611
Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 9 2002

UR
PAPER NO. 4 #4

In re Application of	:	
Ruggero Maria Santilli	:	DECISION
Serial No. 09/826,183	:	ON
Filed: April 04, 2001	:	PETITION
For: NEW CHEMICAL SPECIES	:	
OF A MAGNECULE	:	UNDER 708.02, V

This is in response to the petition filed October 17, 2001, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

MASON & ASSOCIATES, PA
17757 US HWY 19N, Suite 500
Clearwater, FL 33764

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: MAY 21 2003

td
Paper Number 7

In re application of
Ruggero M Santillo
Serial No. 09/826,183
Filed: April 4, 2002
For: NEW CHEMICAL SPECIES OF A MAGNECULE

DECISION ON PETITION

This is a decision on the PETITION FOR APPOINTMENT OF NEW EXAMINER.

The instant application was filed on April 4, 2001. The instant petition was filed on February 4, 2003. In the petition, it is urged that instant application be reassigned from Examiner Tran to another examiner.

DECISION

It is noted that the instant application is currently docketed to Examiner Cephia Toomer in art unit 1714 and not to the aforementioned Examiner Tran. The instant petition is deemed to be moot and accordingly is **DISMISSED.**

Applicants request for an interview prior to issuance of an office action is noted. The application will be forwarded to the examiner of record to arrange such an interview at a mutually agreeable time.

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

DENNIS G. LAPOINTE
MASON LAW, P.A.
17757 U.S. HWY. 19 N., SUITE 500
CLEARWATER, FL 33764

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CST

9-22-06

In re application of Ruggero M. Santilli Serial No. 09/826,183 Filed: April 4, 2001 For: NEW CHEMICAL SPECIES OF MAGNECULAR CLUSTERS	: : : : : : :	DECISION ON PETITION

This is a decision on the PETITION FOR APPOINTMENT OF NEW EXAMINER IN A DIFFERENT ART GROUP, filed July 12, 2006. Petitioner requests that the above-identified application be reassigned to a different examiner due to Applicant's perception that he is being treated unfairly and that his claims are not being examined objectively.

The file history of Application No. 09/826,183 has been reviewed. While the petitioner requests that the present application be reassigned in view of Applicant's perception that he is being treated unfairly and that his claims are not being examined objectively, it is noted that the issues raises by the petitioner do not demonstrate any unfair bias or prejudice towards the applicants. See *In re Ovshinsky*, 24 USPQ2d 1241.

Petitioner is reminded that the remedy for improper rejections is appeal to the Board of Patent Appeals and Interferences (37 CFR 41.31) and the appeal for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns of Examiner Toomer's actions during the examination of the present application.

The petition is **DENIED**.

The response to the office action submitted July 13, 2006 will be forwarded to the examiner for prompt consideration.

JMStone

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

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Dennis G. Lapointe
Lapointe Law Group, PL
PO Box 1294
Tarpon Springs, FL 34688-1294

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Ruggero Maria Santilli	:	
Application No. 09/826,183	:	DECISION ON PETITION
Filed: April 4, 2001	:	TO WITHDRAW
Attorney Docket No. 3293.004A	:	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 2, 2006.

The request is **APPROVED**.

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

The request was signed by Dennis G. Lapointe on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Final Rejection Office action mailed October 19, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ruggero Santilli**
c/o Hadronic Press, Inc.
35246 US Hwy 19 N.
PMB 115
Palm Harbor, FL 34684

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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
09/826,183	04/04/2001	Ruggero Maria Santilli	3293.004A

CONFIRMATION NO. 9175

OC000000023543896

OC000000023543896

24040
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS, FL 34688-1294

Date Mailed: 04/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri J. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Paper No.

DEC 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Robert F. Gazdinski
GAZDINSKI & ASSOCIATES
11440 West Bernardo Court, Suite 375
San Diego, CA 92127

In re Application of:
Gary Logston
Application No. 09/826,201
Filed: April 4, 2001
For: METHOD AND APPARATUS FOR PROFILING IN A DISTRIBUTED APPLICATION ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 19, 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 October 19, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Gary Logston
17027 Alderwood Lane
Poway, CA 92064

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Paper No. 11

General Electric Company
3135 Easton Turnpike – W3C
Fairfield, CT 06431

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OFFICE OF PETITIONS

In re Application of	:	
Uwe Wiedmann	:	
Application No. 09/826,202	:	ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. 14XZ00101	:	

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 in a timely manner to the non-final Office action February 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 14, 2002.

Receipt is acknowledged of the Drawing Correction filed November 14, 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 2800, Art Unit 2882.

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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Paper No.

Melissa A. Carr
Advanced Energy Technology, Inc.
12900 Snow Road
Parma, OH 44130

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APR 19 2004
OFFICE OF PETITIONS

In re Application of	:	
Julian Norley, et al.	:	
Application No. 09/826,225	:	ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. P-1029	:	

This is a decision on the petition under 37 CFR 1.137(a), filed February 18, 2004, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has shown to the satisfaction of the Commissioner that the delay in filing a reply to the outstanding Office action was unavoidable.

The application file is being forwarded to Technology Center 1700.

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

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

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OFFICE OF PETITIONS

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

In re Application of :
Klug : DECISION ON PETITION
Application No. 09/826,227 :
For: April 4, 2001 :
Atty. Dkt. No.: P-1030 :

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

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned December 9, 2004 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed September 8, 2004. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed January 20, 2005.

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(c).

The instant petition fails to satisfy requirement (3) set forth above.

Petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more 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). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the failure to reply to the Notice to the Office's failure to mail the Notice to the correct correspondence address. Petitioner argues that a change of correspondence address was filed April 21, 2003, prior to the mailing of the Notice. As a result of a change in correspondence address, the Notice apparently was not received, a response to the Notice was not timely submitted, and, resultantly, the application became abandoned.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. *See*, MPEP 711.03(c).

A review of the record reveals that a change of correspondence address was received April 21, 2003. The change of correspondence address, however, was not entered because it was not signed by one duly authorized to represent applicant. Paul Chirgott signed the change of correspondence address. A review of the record does not reveal that a power of attorney to Mr. Chirgott was ever filed in the instant application.

The Office is without authority to enter into the record a change of correspondence address submitted by one not empowered to represent the applicant. *See*, 37 CFR 1.33(a)(2) and 1.33(b)(1).

The change of correspondence address submitted September 1, 2005 was properly executed by James R. Cartiglia in accordance with 37 CFR 1.33(a)(2) and 1.33(b)(1) and was, therefore, entered into the record.

Any renewed petition must establish that the entire period of time from the time that a reply to the Office communication was due until the filing of a grantable petition was unavoidable.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 25 2008

OFFICE OF PETITIONS

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

In re Application of	:	
Klug	:	
Application No. 09/826,227	:	DECISION ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. P-1030	:	

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2007, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned December 9, 2004 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed September 8, 2004. Notice of Abandonment was mailed January 20, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the required issue fee and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

MAIL

JUN 0 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paul B. Milcetic
WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

In re Application of:	)	
Jonathan BRICKLIN et al.	)	**DECISION ON PETITION FOR**
Application No. 09/826,230	)	**ACCELERATED EXAMINATION**
Filed: April 4, 2002	)	**UNDER M.P.E.P. §708.02(VIII)**
For: WEB BASED DATING SERVICE	)	

This is a decision on the petition filed April 17, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **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. §1.102(d) states in relevant part:

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

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

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

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

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

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

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

Applicant's submission 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.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 0 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paul B. Mulcetic
WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

In re Application of:
Jonathan BRICKLIN et al
Application No. 09/826,230
Filed: April 4, 2001
For: WEB-BASED DATING SERVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed February 26, 2003 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) above. That is, it does not indicate that Applicant will make an election without traverse if the Office determines that all claims are not obviously directed to a single invention.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Wendy W. Koba, Esq.
P.O. Box 556
Springtown, PA 18081

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APR 2 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Federico Capasso, et. al. :
Application No. 09/826,237 :
Filed: April 4, 2001 :
Attorney Docket No. 65-104-1-19-28-7-34-13 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on April 18, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed August 27, 2002, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 27, 2002.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 2800.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

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APR 24 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ylian Saint-Hilaire et al :
Application No. 09/826,251 :
Filed: April 4, 2001 :
Attorney Docket No. ITL.0554US (P11113) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2618 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.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Ylian Saint-Hilaire	: DECISION ON REQUEST FOR
Patent Number	: 7577451	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/826,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **615** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 19

PHILIPS ELECTRONICS NORTH AMERICAN CORP.
580 WHITE PLAINS RD.
TARRYTOWN, NY 10591

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OFFICE OF PETITIONS

In re Application of	:	
Norbert Conrads et al	:	
Application No. 09/826,256	:	ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. PHN 16, 136A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 14, 2005.

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

This file is being forwarded to Technology Center AU 2882 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of	:	
Kim F. Storm	:	
Application No. 09/826,266	:	ON PETITION
Filed: April 3, 2001	:	
Attorney Docket No. 08204/8201348-000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed on September 13, 2004, which set an extendable one-month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2004. A Notice of Abandonment was mailed on June 16, 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 Election with traverse; (2) the petition fee; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should 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.

This matter is being referred to Technology Center Art Unit 2154.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

FOLEY HOAG
PATENT GROUP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02110

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JUN 1 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Randall S. Alberte et al	:	
Application No. 09/826,287	:	ON PETITION
Filed: April 3, 2001	:	
Attorney Docket No. CEA-009.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 12, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 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 1639.

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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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,804,099 :
Issue Date: October 12, 2004 :
Application No. 09/826,292 :
Filed: April 4, 2001 :
Patentee: Joel Stephen Michon, et al. :

ON PETITION

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

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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MAR 2 5 2002

OFFICE OF PETITIONS

In re Application of
Douglas M. Winneg et al.
Application No. 09/826,310
Filed: April 3, 2001
For: SECURELY EXECUTING AN APPLICATION ON A COMPUTER SYSTEM

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

This is in response to the petition under 37 CFR 1.47(a), filed January 9, 2002 (certificate of mailing October 22, 2001).

The petition is granted.

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

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

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

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks

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

RAYMOND HAYLAND
C/O SOFTWARE WORKS CORPORATION
1001 WORCESTER ROAD
FRAMINGHAM, MA 01703

COPY MAILED

MAR 2 5 2002

OFFICE OF PETITIONS

In re Application of
Douglas M. Winneg; Raymond Hayland
Application No. 09/826,310
Filed: April 3, 2001
For: SECURELY EXECUTING AN APPLICATION ON A COMPUTER SYSTEM

Dear Mr. Hayland:

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

cc:

Wolf, Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

TED R RITTMASTER
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067-3021

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of
Scherr, et al.
Application No. 09/826,323
Filed: April 4, 2001
Attorney Docket No. 041892-0209

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition pursuant to 37 CFR 1.47(a), filed January 11, 2002.

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

The above-identified application was filed on April 4, 2001, without the filing fee or an executed oath or declaration. Accordingly, on June 4, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the filing fee together with the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a four month extension of time and included a Certificate of Mailing dated December 4, 2001. Applicant included a declaration signed by co-inventors Scott Jeffrey Sherr, Eva Miranda, Ira Steven Rubenstein, Sean Brennan Carey, Yair Landau, Andrew C. Frank, Bryan Gentry Spaulding, Seth David Palmer, Bruce Forest, and Steven Koenig. The declaration lacked signatures from co-inventors Brian David Lakamp, Charles Jonathan Evans, Everton Anthony Schnabel, Hartmut Ochs, Jeremy Eli Barnett, Todd Michael Henderson, and William W. Chong.

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, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, attorney Ted R. Rittmaster included a declaration of facts in which he detailed the efforts taken to transmit the application papers to the non-signing inventors. Also included on petition were, *inter alia*, copies of the cover letters to each of the non-signing inventors, transmitting the application papers. According to Rittmaster, no declarations from the non-

signing inventors have been received.

The declaration filed January 11, 2002 and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Christina P. Donnell for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM W CHONG
20 CONFUCIUS PLAZA #18M
NEW YORK NY 10002

COPY MAILED

MAY 09 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Chong:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina L. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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TODD MICHAEL HENDERSON
2249 VETERAN AVE
LOS ANGELES CA 90064

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MAY 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Henderson:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Y. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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JEREMY E BARNETT
563 VIA DE LA PAZ
PACIFIC PALISADES CA 90272

COPY MAILED

MAY 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Barnett:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina L. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARTMUT OCHS
818 PARKMAN AVE
LOS ANGELES CA 90026

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Ochs:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina L. Donnell

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EVERTON ANTHONY SCHNABEL
428 NORTH LAUREL AVE
LOS ANGELES CA 90048

COPY MAILED

MAY 09 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Schnabel:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Y. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES JONATHAN EVANS
55 WEST 14TH ST
APT 2E
NEW YORK NY 10011

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Evans:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina L. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRIAN DAVID LAKAMP
18131 KINGSPORT DR
MALIBU CA 90265

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of :
Scherr, et al. :
Application No. 09/826,323 :
Filed: April 4, 2001 : LETTER
Title: ONLINE DIGITAL VIDEO SIGNAL :
TRANSFER APPARATUS AND METHOD

Dear Mr. Lakamp:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Y. Donnell for

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, California 90067-3021

AF

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.
09/826,327	04/04/2001	Gerson Botacini das Dores	2629-4016US1	3929

27123 7590 09/27/2005
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER
CHIN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
1641	

DATE MAILED: 09/27/2005

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	2182005

DATE MAILED:

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

Commissioner for Patents

The petition to accept color photographs as drawings under 37 CFR 1.84(b) filed on 9/30/04 is granted.

LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Long Le
Supervisory Patent Examiner
Art Unit: 1641

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/826,327	DORES ET AL.	
	Examiner	Art Unit	
	Christopher L. Chin	1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on *30 September 2004* 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.

Christopher L. Chin
Primary Examiner
Art Unit: 1641 1/26/05

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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SEP 1 0 2001

OFFICE OF PETITIONS

SCHIFF HARDIN & WAITE
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

In re Application of :
Haferbeck, et al. :
Application No. 09/826,357 :
Filed: June 14, 2000 :
Attorney Docket No.: P00,1277 :
For: ATM SWITCHING EQUIPMENT HAVING:
A SWITCHING NETWORK :

LETTER HOLDING DECISION
ON PETITION IN ABEYANCE

This is in response to the petition under 37 CFR 1.10(e), filed May 14, 2001, requesting that the above-identified application be accorded a filing date of June 14, 2000.

Petitioner alleges that the application was deposited in Express Mail service ON June 14, 2000. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing label number EL568799959US. The same Express Mail label number is referred to in the copy of the original Application Transmittal Letter submitted with the instant petition.

It is noted that the application transmittal letter filed on June 14, 2000, identifies two sheets of drawings and an unexecuted declaration as parts of the application. A copy of the unexecuted declaration was supplied on April 5, 2001. However, no drawings were supplied on April 5, 2001. It is unclear whether the omission of drawings on April 5, 2001, was intentional and that the reference to two sheets of drawings in the transmittal letter filed on June 14, 2000, was an error or that an incomplete copy of the application was supplied on April 5, 2001.

As a result, a decision on applicants' entitlement to a filing date of June 14, 2000, must be held in abeyance pending receipt of additional evidence concerning the filing of Figures 1 and 2.

If counsel's file for this application indicates that drawings of Figures 1 and 2 were filed on June 14, 2000, applicants reply to this letter must include a copy of Figures 1 and 2 accompanied by a statement confirming that counsel's file indicates that drawings of Figures 1 and 2 were filed on June 14, 2000. On the other hand, if counsel's file indicates that drawings of Figures 1 and 2 were <u>not</u> filed on June 14, 2000, applicants' reply must so state.

Applicants are given TWO MONTHS from the mailing date of this letter to file a reply. This time period is <u>not</u> extendable under 37 CFR 1.136(a). Failure to timely reply will result in the return of the application to the Office of Initial Patent Examination to await the drawings required in the Notice mailed June 21, 2001, and, in which case, the assignment of a filing

date as of the date of submission of Figures 1 and 2.

The application will be retained in the Office of Petitions to await the applicants's reply to this letter.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COPY MAILED

NOV 2 6 2001

OFFICE OF PETITIONS

SCHIFF HARBIN & WAITE
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

In re Application of :
Haferbeck, et al. :
Application No. 09/826,357 : DECISION GRANTING PETITION
Filed: June 14, 2000 :
Attorney Docket No.: P00,1277 :
For: ATM SWITCHING EQUIPMENT HAVING:
A SWITCHING NETWORK :

This is in response to the petition under 37 CFR 1.10(e), filed May 14, 2001 and supplemented September 24, 2001, requesting that the above-identified application be accorded a filing date of June 14, 2000.

Petitioner alleges that the application was deposited in Express Mail service on June 14, 2000. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing label number EL568799959US. The same Express Mail label number is referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. 2000. In addition, a search of the USPS Express Mail Information Database indicates that a package bearing Express Mail label No. EL568799959US was accepted by the USPS on June 14, 2000.

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

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 14, 2000 using the copy of the specification supplied April 5, 2001, the signed declaration filed August 16, 2001, and the two (2) sheets of drawings supplied September 24, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 06 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSON BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Rolf HAFERBECK, et al	:	
Application No. 09/826,357	:	DECISION ON PETITION
Filed: June 14, 2000	:	TO WITHDRAW
Attorney Docket No. 449122029900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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 attorneys of record were not appointed by customer number.

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

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD LLC
ATTN: KEVIN R. SPIVAK
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602-4202

UNITED STATES 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: SEP 21 2004

spg
Paper Number _____

In re application of
Wolfgang Schulz
Serial No. 09/826,369
Filed: April 5, 2001
For: AWNING FABRIC AND PROCESS FOR PRODUCING SAME:

DECISION ON PETITION

This is a response to the PETITION TO VACATE HOLDING OF ABANDONMENT, filed March 23, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed March 11, 2004, be withdrawn since the applicant did timely file a response to the Office letter mailed September 9, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the application record indicates that the petitioner's request has been rendered moot in light of the recent withdrawal of the Notice of Abandonment. The prosecution of the application has been subsequently reopened in the Office letter of July 14, 2004.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

OIPE JC183 OCT 03 2001 PATENT & TRADEMARK OFFICE

EXPRESS MAIL CERTIFICATE

Date 10/3/01 Label No. EL767718474US

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

D B Peck

Name (Print) Signature

PLEASE CHARGE ANY DEFICIENCY UP TO $300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

Customer No.: 07278

PATENT TRADEMARK OFFICE

Docket No.: 3153/1F534US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stephen R. QUAKE; Hou-Pu CHOU

Serial No.: 09/826,373 Art Unit: 1743

Confirmation No.: 2878

Filed: April 4, 2001 Examiner: Not yet assigned

For: METHODS AND SYSTEMS FOR MOLECULAR FINGERPRINTING

- -

Box PATENT APPLICATION
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO NOTICE TO FILE MISSING PARTS
COMPLETION OF PATENT APPLICATION

The following items are submitted herewith in response to the Notice to File Missing Parts of Non-provisional Application (hereinafter referred to as the "Notice") mailed on July 6, 2001for the above-identified application:

1. [X] Declaration and power of attorney, executed by Stephen R. QUAKE and Hou-Pu CHOU

2. Payment in the amount of $ 832, ($ 727 filing; $ 40 recording; $65 late)

in the form of:
[X] check
[] deposit account no. 04-0100
[] credit card (see attached form)
(See attached **Fee Computation Sheet**);

3. [X] Assignment for recording to: California Institute of Technology;

4. [X] Information Disclosure Statement; including Form PTO 1449 and 36 references;

5. [X] Applicant claims small entity status
(PARTIAL REFUND of all fees paid within last 2 months is REQUESTED);

6. [X] A return copy of the Notice; and

7. [X] A Petition for Extension of Time, accompanied by the appropriate Extension fees and requesting an extension for a period of one month (for September 6, 2001 up to and including October 6, 2001) for responding to the Notice.

The Patent Office is authorized to charge any deficiency up to $300.00 in the above fees, and to credit any excess, to our Deposit Account No. 4-0100.

Respectfully submitted,

Dated: October 3, 2001

Samuel S. Woodley, Ph.D.
Reg. No. 43,287
Agent for Applicant(s)

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022
212-527-7700

OIPE JC183
OCT 0 3 2001
PATENT & TRADEMARK OFFICE

Docket No.: 3153/1F534US1

PATENT COMPUTATION SHEET

	No. of Claims Presented	Extra Claims Previously Paid For	Number of Extra Claims	Rate
Basic Fee				$740.00
Total Claims	55 - 20	- 0 = 35	x $18.00	$630.00
Independent Claims	4 - 3	- 0 = 1	x $84.00	$84.00
Multiple Dependent Claims		- if so, add	$280.00	$0.00

Surcharge for late submission of filing fee and/or declaration ($130.00)	$130.00
SUBTOTAL	$1584.00
[X] Small Entity REDUCTION (Half of Subtotal)	$792.00
Fee for recordation of assignment ($40.00)	$40.00
Charge for filing non-English language application ($130.00)	$0.00
TOTAL	$832.00

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OCT 0 3 2001
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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
09/826,373	04/04/2001	Stephen R. Quake	3153/1F534US1

CONFIRMATION NO. 2878

FORMALITIES LETTER

OC000000006268201

07278
DARBY & DARBY
805 THIRD AVENUE, 27TH FLR.
NEW YORK, NY 10022

Date Mailed: 07/06/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/09/2001 BABRAHA1 00000116 09826373
01 FC:201 370.00 OP
02 FC:203 315.00 OP
03 FC:202 42.00 OP
04 FC:205 65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $355.
  - **$315** for **35** total claims over 20.
  - **$40** for **1** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 775.**

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

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

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,833,242 :
Issue Date: December 21, 2004 :
Application No. 09/826,373 : NOTICE
Filed: April 1, 2001 :
Attorney Docket No. 20174C-01210US :

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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OFFICE OF PETITIONS

In re Application of
Scott J. Sherr et al.
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

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

This is a decision on the petition under 37 CFR 1.47(a), filed November 27, 2001.

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

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

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the declaration. 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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WASHINGTON, D.C. 20231
www.uspto.gov

Andrew C. Frank
2166 Broadway #15E
New York, NY 10024

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In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Frank:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Brian D. Lakamp
18131 Kingsport Drive
Malibu, CA 90265

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OFFICE OF PETITIONS

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Lakamp:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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WASHINGTON, D.C. 20231
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Charles J. Evans
55 West 14th Street, Apt. 2E
New York, NY 10011

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OFFICE OF PETITIONS

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Evans:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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Everton A. Schnabel
428 N. Laurel Avenue
Los Angeles, CA 90048

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Schnabel:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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Hartmut Ochs
818 Parkman Avenue
Los Angeles, CA 90026

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Ochs:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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Seth D. Palmer
33 Gold Street, #509
New York, NY 10038

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Palmer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

UNITED STATES PATENT AND TRADEMARK OFFICE

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Todd M. Henderson
2249 Veteran Avenue
Los Angeles, CA 90064

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In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Henderson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Latrice Bond

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

Frances Hicks

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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William W. Chong
20 Confucius Plaza, #18M
New York, NY 10002

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OFFICE OF PETITIONS

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Chong:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

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OFFICE OF PETITIONS

Steven Koenig
1751 Croner Avenue
Menlo Park, CA 94025

In re Application of
Scott J. Sherr, Eva Miranda, Ira S. Rubenstein, Sean B. Carey, Yair Landau, Andrew C. Frank, Brian D. Lakamp, Bryan G. Spaulding, Charles J. Evans, Everton A. Schnabel, Hartmut Ochs, Jeremy E. Barnett, Seth D. Palmer, Todd M. Henderson, William W. Chong, Bruce Forest, Steven Koenig and Karl Wiersholm
Application No. 09/826,374
Filed: April 4, 2001
For: Online Digital Video Transfer Apparatus and Method

Dear Mr. Wiersholm:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

cc: Ted R. Rittmaster
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 07/03/02 Paper No.: 8

TO : Supervisor, Art Unit ~~1600~~ 1626

SUBJECT : Certificate of Correction Request in Patent No.: 6384260

A response to the following question is requested with respect to the accompanying request for a certific of correction.

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

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, l placing a check mark (+) in the box that reflects your decision, which corresponds to the question checke above.

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:**

Joseph McKane / Deborah Lambkin 1626

Supervisor **Art Unit**

PRINTER'S TRIM LINE

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260 B1

DATED : May 7, 2002

INVENTOR(S) : Rajindra Aneja

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

Col 13 - Col 20

1st thing Key as is Keyed

~~In~~ claims 1, 31, 32, 33, 34, 36, 37 and 43, at each instance, please delete "myo" and insert --*myo*-- therefor.

In claims 1, 31, 32, 33, 34, 35 and 43, at each instance, please delete "-sn-" and insert --*-sn*--- therefor.

In claims 1, 32, 33, 34, 35 and 43, at each instance, please delete "-O-" and insert ---*O*--- therefor.

In claims 31, 32, 33, 35, 36, 37 and 43, at each instance, please delete "scyllo" and insert --*scyllo*-- therefor.

4th

~~In claim 9~~, column 13, line 39, please delete "OAc" and insert --*O*Ac- therefor.

Col 14-16

3rd thing

In claims 31, 36 and 37, at each instance, please delete "O-" and insert --*O*--- therefor.

Col 14-16

2nd thing Keyed

~~In claim 31~~, column 14, line 58, please delete "Y F" and insert --Y = F-- therefor.

MAILING ADDRESS OF SENDER:
Shelley P.M. Fussey
WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

PATENT NO.6,384,260
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260

DATED : May 7, 2002

INVENTOR(S) : Rajindra Aneja

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

Col 15 & 16

5th, cmng keyed

~~In~~ claims 36 and 37, at each instance, please delete "sn-" and insert --*sn*--- therefor.

~~In claim 37,~~ column 16, line 50, please delete "ωaminoalkyl" and insert --ω-aminoalkyl-- therefor.

~~In claim 37,~~ column 16, line 63, please delete "ω-substitutedamino)" and insert --ω-(substitutedamido)-- therefor.

~~In claim 39,~~ column 18, line 21, please delete "alkenyl, alkyl" and insert --alkenyl, alkynyl-- therefor.

~~In claim 39,~~ column 18, line 26, between the words "aminofluorophor, alkynyl" please insert the following --alkyl-fluorophor, hydroxylalkyl, or ketoalkyl; or where R' = alkyl, alkenyl,--.

~~In claim 42,~~ column 20, line 4, please delete "R'" and insert --R^1-- therefor.

MAILING ADDRESS OF SENDER:
Shelley P.M. Fussey
WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

PATENT NO.6,384,260
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260 B1
DATED : May 7, 2002
INVENTOR(S) : Rajindra Aneja

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

Title page,
Item [56], OTHER PUBLICATIONS, "Chen et al.," reference, delete "3,45" and insert -- 3,4,5 -- therefor.

Column 1,
Line 8, delete "finds" and insert -- funds -- therefor.
Line 10, after "NIH-GM51138", add -- and Grant No. NIH-GM49594 and NIH-CA57107 --.
Line 31, delete "(PtdIns(4,5)P)" and insert -- (PtdIns(4,5)P_2) -- therefor.
Line 34, delete "(P_3)" and insert -- (IP_3) -- therefor.
Line 36, delete "Ca:" and insert -- Ca++ -- therefor.
Line 43, delete "on coproteins" and insert -- oncoproteins -- therefor.
Line 50, delete "Majerms" and insert -- Majerus -- therefor.
Line 62, delete "PtdIns(4,5)$_2$" and insert -- PtdIns(4,5)P_2 -- therefor.

Column 2,
Line 14, delete "art (Yang et al., U.S." and insert -- art, Yang et al. (U.S. -- therefor.

Column 3,
Line 12, delete "(ω(-" and insert -- (ω- -- therefor.

Column 4,
Line 27, delete "PI-PLCd1" and insert -- PI-PLCδ1 -- therefor.
Line 30, delete "of".
Line 63, delete "(4,5)" and insert -- (4,5)P_2 -- therefor.

Column 5,
Line 12, delete "R.T" and insert -- r.t. -- therefor.
Line 46, delete "bezylaminoalkyl" and insert -- benzylaminoalkyl -- therefor.

Column 6,
Line 12, delete "10 mg" and insert -- 10 μg -- therefor.

Column 9,
Line 39, delete "scyllo-inositol" and insert -- myo/scyllo-inositol -- therefore.
Line 39, delete "dibezylphosphate" and insert -- dibenzylphosphate -- therefor.
Lines 54, 60 and 63, delete "myo-inositol" and insert -- myo/scyllo-inositol -- therefor.

Column 10,
Line 1, delete "myo-inositol" and insert -- myo/scyllo-inositol -- therefor.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260 B1
DATED : May 7, 2002
INVENTOR(S) : Rajindra Aneja

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

Column 11,
Line 25, delete "dimithylaminopryridine" and insert -- dimethylaminopyridine -- therefor.
Line 55, delete "dibezylphosphate" and insert -- dibenzylphosphate -- therefor.

Signed and Sealed this

Twenty-sixth Day of August, 2003

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

Best Available Copy

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260 B1 S MP N Key

DATED : May 7, 2002

INVENTOR(S) : Rajindra Aneja

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

Item (56) of the R PIBS, "Chen et al.," reference

Title page, ~~column 2, line 3,~~ delete "3,45" and insert --3,4,5-- therefor.

In column 1, line 8, delete "finds" and insert --funds-- therefor.

In column 1, line 10, after "NIH-GM51138", add --and Grant No. NIH-GM49594 and NIH-CA57107--.

In column 1, line 31, delete "(PtdIns(4,5)P)" and insert --(PtdIns(4,5)P_2)-- therefor.

In column 1, line 34, delete "(P_3)" and insert --(IP_3)-- therefor.

In column 1, line 36, delete "Ca:" and insert --Ca++-- therefor.

In column 1, line 43, delete "on coproteins" and insert --oncoproteins-- therefor.

In column 1, line 50, delete "Majerms" and insert --Majerus-- therefor.

In column 1, line 62, delete "PtdIns$(4,5)_2$" and insert --PtdIns(4,5)P_2-- therefor.

In column 2, line 14, delete "art (Yang et al., U.S." and insert --art, Yang et al. (U.S.-- therefor.

In column 3, line 12, delete "(ω(-" and insert --(ω- -- therefor.

In column 4, line 27, delete "PI-PLCd1" and insert --PI-PLCδ1-- therefor.

In column 4, line 30, delete "of".

In column 4, line 63, delete "(4,5)" and insert --(4,5)P_2-- therefor.

In column 5, line 12, delete "R.T" and insert --r.t.-- therefor.

In column 5, line 46, delete "bezylaminoalkyl" and insert --benzylaminoalkyl-- therefor.

In column 6, line 12, delete "10 mg" and insert --10 μg-- therefor.

MAILING ADDRESS OF SENDER:
Shelley P.M. Fussey
WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

PATENT NO.6,384,260
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,384,260

DATED : May 7, 2002

INVENTOR(S) : Rajindra Aneja

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

In column 9, line 39, delete "scyllo-inositol" and insert --myo/scyllo-inositol-- therefore.
In column 9, line 39, delete "dibezylphosphate" and insert --dibenzylphosphate-- therefor.
In column 9, line 54, delete "myo-inositol" and insert --myo/scyllo-inositol-- therefor.
In column 9, line 60, delete "myo-inositol" and insert --myo/scyllo-inositol-- therefor.
In column 9, line 63, delete "myo-inositol" and insert --myo/scyllo-inositol-- therefor.
In column 10, line 1, delete "myo-inositol" and insert --myo/scyllo-inositol-- therefor.
In column 11, line 25, delete "dimithylaminopryridine" and insert --dimethylaminopyridine-- therefor.
In column 11, line 55, delete "dibezylphosphate" and insert --dibenzylphosphate-- therefor.

MAILING ADDRESS OF SENDER:
Shelley P.M. Fussey
WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, Texas 77040

PATENT NO.6,384,260
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SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/31/08

TO SPE OF : ART UNIT 1626 McKane, Joseph

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/826346 Patent No.: 6384260

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Joseph K McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of
Boris Maslov et al
Application No. 09/826,422
Filed: April 05, 2001
Attorney Docket No. 57357-015

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

This is a decision on the petition under 37 CFR 1.137(f), filed May 9, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 29, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 8

MALLOY & MALLOY, P.A.
2800 S.W. THIRD AVENUE
HISTORIC CORAL WAY
MIAMI, FL 33129

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OFFICE OF PETITIONS

In re Application of	:
Ronald Jacobson	:DECISION GRANTING PETITION
Application No. 09/826,428	:UNDER 37 CFR 1.137(b)
Filed: April 2, 2001	:
Attorney Docket No. 1.002.00	:

This is a decision on the petition under 37 CFR 1.137(f), filed April 24, 2003, which is being treated under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on April 2, 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(b) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 18, 2003 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 3623 to await petitioner's reply to the outstanding Office action or, if previously filed, association with the instant application. Petitioner is reminded that the statutory period for filing a reply to the Office action, mailed January 29, 2003, continues to run from the mail date of that action.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6834195	2004-12-21	09826448	2001-04-04	0746MH-40404-US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jamesewaltonpat/	Date (YYYY-MM-DD)	2010-03-09
Name	James E. Walton	Registration Number	47245

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. 6834195
Issue Date: December 21,2004
Application No. 09826448
Filed: April 4,2001
Attorney Docket No. 0590MH-40404-US

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

This is a decision on the electronic petition, filed March 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 9,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRACIELA G. COWGER
MARGER JOHNSON & MCCOLLOM
1030 SW MORRISON STREET
PORTLAND, OR 97205

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FEB 24 2006
OFFICE OF PETITIONS

In re Patent No. 6,683,604 :
Issue Date: January 27, 2004 :
Application No. 09/826,493 : ON PETITION
Filed: April 4, 2001 :
Patentee: Michael G. West, et al. :

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.

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

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.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Paper No. 8

Timothy D. Stanley
Sandia National Laboratories
PO Box 5800 – MS-0161
Albuquerque, NM 87185-0161

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OFFICE OF PETITIONS

In re Application of :
John E. Parmeter et al. :
Application No. 09/826,502 : ON PETITION
Filed: April 4, 2001 :
Attorney Docket No. SD-6643 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts (Notice) mailed October 22, 2003, which 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 have been obtained. Accordingly, the application became abandoned on January 23, 2004.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $110 will be refunded to petitioner in due course.

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

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

Latrice Bond

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

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441 VINE STREET
CINCINNATI, OH 45202

In re Application of	:	
John R. DEPHILLIPO, et al	:	
Application No. 09/826,522	:	DECISION ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. GNLK-03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 4, 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 $750; and (3) an adequate statement of unintentional delay.

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

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2007.

April Wise
Petitions Examiner
Office of Petitions

cc: ROBERT P. RICCIARDI
831 NEWHALL ROAD
KENNETT SQUARE, PA 19348

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/06

TO SPE OF : ART UNIT 2634

SUBJECT : Request for Certificate of Correction for Appl. No.: 09826547 Patent No.: 6961398

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**.

Monique

Certificates of Correction Branch

703-308-9390 ext. 115

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Requested Corrections "ON THE TITLE PAGE" are not approved because No IDS was submitted listing these prior art references during the patent prosecution. Remaining corrections "IN THE DRAWINGS" and "IN THE SPECIFICATION" are approved.

Shuwang Liu — SPE

2611 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES
SUITE 265
AUSTIN TX 78746

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Tiemann et al.	:	DECISION ON PETITION
Application No. 09/826,552	:	
Filed: April 4, 2001	:	
Atty Docket No. PRGY.0102270	:	

This is a decision on the PETITION TO THE COMMISSIONER UNDER RULES 1.181-1.182 filed July 11, 2006.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed June 24, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 25, 2005. A courtesy Notice of Abandonment was mailed on June 29, 2006.

Applicants contend that a timely response was filed by facsimile transmission on August 3, 2005. In support thereof, applicants submit a copy of the response as filed, a copy of their facsimile confirmation sheet confirming successful transmission, and a copy of the USPTO auto-reply acknowledging receipt of a facsimile transmission sent to the Office's Centralized Facsimile number.

Petitioner's evidence and arguments have been considered and it is concluded that the requirements of 37 CFR § 1.8(b) have been met. The response is considered timely filed by facsimile transmission on August 3, 2005.

In view thereof, the Notice of Abandonment mailed June 29, 2006 is hereby **vacated**, and the holding of abandonment is **withdrawn**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2153 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response previously filed on August 3, 2005 and resubmitted on petition filed July 11, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,899,137	:	
Issue Date: May 31, 2005	:	
Application No. 09/826,583	:	NOTICE
Filed: April 6, 2001	:	
Attorney Docket No. 20174-003010US	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JACK E. HAKEN
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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MAR 1 4 2002

OFFICE OF PETITIONS

In re Application of
Dielhof, Centen & Morisson
Application No. 09/826,620
Filed: April 5, 2001
Attorney Docket No. NL000204
For: FRONT-END DEVICE FOR CCD WITH HYBRID SAMPLER

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 31, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 5, 2001 without an executed oath or declaration. Accordingly, on May 14, 2001, a "Notice to File Missing Parts of NonprovisionalApplication" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 31, 2001 (certificate of mailing November 14, 2001), a petition for a four month extension of time with required fee, a declaration executed by joint inventors Dielhof and Centen, the surcharge, and the instant petition with required fee were filed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Rule 47 applicants have failed to show that the inventor cannot be reached. Where inability to find or reach a nonsigning inventor is alleged, 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 to locate the nonsigning inventor. The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted.

No one with first hand knowledge has made a declaration/statement of facts as to the circumstances that show the inventor cannot be found. The e-mails and other correspondence between Philips employees and the letter addressed to Mr. Morrison at his last known address are

pieces of non-conclusive evidence that tend to show attempts were made to reach Mr. Morisson at his last known address.[1] There is no other evidence that establishes petitioners' diligence in locating him. Petitioners must attempt to find Mr. Morisson through means other than attempting to contact him at his last known address. Copies of documentary evidence such as certified mail return receipt, any inquiries of the Caen telephone directory, or any extant national or regional registry, telegrams, and print-outs of internet searches that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Pursuant to petitioners' authorization, deposit accunt no. 14-1270 will be charged the $130.00 petition fee.

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

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

By facsimile: (703) 308-6916
Attn: Office of Petition
E. Shirene Willis, Petitions Attorney

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

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

E. Shirene Willis

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

[1] Mrs. Laublin states that she sent a reminder to Richard Morisson on October 26, 2001 and that it was returned. This is evidence that that argues in favor of petitioners' inability to reach Mr. Morisson. Regarding Mrs. Lanslots' letter of July 23, 2001, petitioners have not provided a statement from Mrs. Lanslots that she mailed the correspondence. In addition, the Office has no information as to whether it was returned to sender.

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Paper No. 7

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JUN 07 2002

OFFICE OF PETITIONS

JACK E. HAKEN
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

In re Application of
Dielhof, Centen & Morisson
Application No. 09/826,620
Filed: April 5, 2001
Attorney Docket No. NL000204
For: FRONT-END DEVICE FOR CCD WITH HYBRID SAMPLER

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 20, 2002 (certificate of mailing date May 8, 2002).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 5, 2001 without an executed oath or declaration. Accordingly, on May 14, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. Applicant's petition under 37 CFR 1.47(a), filed December 31, 2001, was dismissed for failure to show that non-signing inventor Richard Morisson could not be reached or found after diligent effort.

In response to the March 14, 2002 dismissal, petitioners filed the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor cannot be located. The statement of Mrs. Jacqueline Lanslots and the accompanying exhibits/e-mails show that another person, Mrs. Claudine Laublin, attempted to contact Mr. Morisson only once at a former address.

One returned mailing, addressed to Mr. Morisson at his last known address, does not demonstrate the required level of diligence to merit accordation of Rule 47 status to the above-identified application.

Petitioners should try to locate Mr. Morisson through other means. Copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached should be made part of an affidavit or declaration. Possible sources of documentary evidence are inquiries of local telephone directory (Caen), inquiries of any extant national or regional registries, telegrams, and searches of Internet databases.

The affidavit or declaration of facts should fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the nonsigning inventor. The affidavit or declaration of facts must be signed by a person having ***firsthand knowledge*** of the facts recited therein. Whoever does the actual searching for Mr. Morisson should be the declarant.

A showing of diligence is critical to obtaining Rule 47 status when an inventor cannot be located or reached.

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

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

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

JACK E. HAKEN
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of Dielhof, Centen & Morisson Application No. 09/826,620 Filed: April 5, 2001 Attorney Docket No. NL000204 For: FRONT-END DEVICE FOR CCD WITH HYBRID SAMPLER	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 13, 2002 (certificate of mailing date August 7, 2002).

Petitioners have shown that the non-signing inventor cannot be located. Specifically, the declaration/statement of facts of James Kenworthy establishes that numerous fruitless attempts to reach Mr. Morisson were made via Internet and various telephone directories. In addition, a mailing to Mr. Morisson's last known address was returned. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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RICHARD MORISSON
15 BD RICHEMOND
1400 CAEN
FRANCE

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SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of
Dielhof, Centen & Morisson
Application No. 09/826,620
Filed: April 5, 2001
Attorney Docket No. NL000204
For: FRONT-END DEVICE FOR CCD WITH HYBRID SAMPLER

LETTER

Dear Mr. Morisson:

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

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

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

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

E. Shirene Willis

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

ATTORNEY OF RECORD: JACK E. HAKEN
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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DICKSTEIN, SHAPIRO, MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS
41ST FLOOR
NEW YORK NY 10036-2714

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of	:
Kazuhiko Yamanouchi, et al.	: DECISION ON PETITION
Application No. 09/826,626	: UNDER 37 CFR 1.78(a)(3)
Filed: April 5 2001	:
Atty Docket No. 9885-009-999	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of priority to prior-filed international application No. PCT/JP99/05512 set forth in the amendment filed concurrently with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on April 5, 2001, and was pending at the time of filing of the petition. A reference to prior-filed Application No. PCT/JP99/05512 has been included in an

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The petition satisfies the conditions of 37 CFR 1.78(a)(3). A corrected Filing Receipt, which includes the priority claim to prior-filed Application No. PCT/JP99/05512, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 2637 for consideration of applicant's claim under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to PCT Application No. PCT/JP99/05512.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

ATTACHMENT: Corrected Filing Receipt

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

Francis T. Kremblas, Jr.
7632 Slate Ridge Boulevard
Reynoldsburg, OH 43068

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of
David Canfield
Application No. 09/826,646
Filed: April 5, 2001
Attorney Docket No. OFA/K100

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 10, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 10, 2002.

The revocation and power of attorney filed June 26, 2003, has been accepted and made of record.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 1700, for further review of the amendment filed with 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 19

James R. Cartiglia
414 Union Street, Suite 2020
Nashville, TN 37219

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MAR 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Jin-Wen Tzeng	:	
Application No. 09/826,676	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. P1026/N8369	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 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, 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 on July 23, 2003.

The application file is being forwarded to Technology Center AU 2811 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,690	04/05/2001	Joseph Harbaugh	6994-1	4205

86002 7590 03/02/2010
J. Rodman Steele
Novak Druce & Quigg LLP
525 Okeechobee Blvd
Suite 1500
West Palm Beach, FL 33401

EXAMINER
CASLER, TRACI

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
03/02/2010	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
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MAR - 2 2010

J. Rodman Steele
Novak, Druce & Quigg, LLP
525 Okeechobee Blvd.
Suite 1500
West Palm Beach, FL 33401

In re Application of Joseph Harbaugh Application No. 09/826,690 Filed: April 5, 2001 For: METHOD FOR ADMITTING AN ADMISSIONS APPLICANT INTO AN ACADEMIC INSTITUTION	: : : :	DECISION ON THE PETITION REGARDING REQUEST TO WITHDRAW FINALITY

Applicant's petition filed under 37 CFR 1.182, filed January 26, 2010, requests the removal of the examiner from the above-noted application due to a perceived examiner bias in it's prosecution, and is being treated as a petition for Supervisory Review under 37 CFR 1.181.

The petition is **DENIED**.

A review of the file record indicates that the application was initially filed on April 5, 2001 with subsequent Office actions and applicant responses leading up to the most recent action being a Final rejection dated December 7, 2009.

Initially, applicant argues that the examiner the Office action of April 25, 2005 indicated that "there must be admission before the student can take courses". This quote is not found in paragraph 50 as indicated by the applicant. The examiner did indicate that some type of admissions process is needed regardless if the classes they are taking are credit or non-credit, but this is very different than the statement the applicant attributes to the examiner. It appears that applicant has altered the examiner's statement and taken it out of context. Plus, it is nothing more than a response to applicant's argument and not evidence of bias.

Applicant next argues that the examiner indicates that the "facts examiner needs to rely on for official notice were taking place long before the examiner was in the field in 1999". Applicant goes on to say that the examiner has failed to identify a single reference supporting her assertion of Official notice despite applicant's request for her to provide supporting evidence. It is not clear where the above statement applicant indicates that the examiner has made resides, but it does not appear to be present in the response to applicant's arguments portion of the above action. Furthermore, a review of the Office action finds that the examiner took no Official Notice. Each and every claim limitation appears to be rejected using prior art, so it is unclear as to what Official notice the applicant is referring to. Also, the follow-up response to the above noted Final rejection (filed August 24, 2005) failed to request the examiner provide any evidence supporting assertions of Official notice.

As to the holding by the examiner that the secondary consideration of admitting minorities into law school is not persuasive, the examiner's holding that these secondary considerations are not persuasive due to a lack of a nexus between the disclosed invention and the purported evidence of long felt need and commercial success is not seen as arbitrary or capricious.

Applicant argues that the examiner, in the Office action of November 4, 2005, improperly draws upon her own experiences as an admissions counselor (taking Official notice) in order to teach the limitation to purchase or gain access to a list of students in a particular category in order to target enrollment. However, besides showing skepticism over the examiner's claims, applicant has not explained how this is evidence of bias. Again, nowhere in the follow-up response to the above noted non-final rejection (filed May 3, 2006) is applicant seen to request the examiner provide any evidence supporting assertions of Official notice.

Applicant also argues that the examiner directly contradicts the Shelton declaration. Just because the examiner is not persuaded by the declaration does not mean that she is contradicting it. The examiner considered the declaration and was not persuaded by it, and explained the reasons why it was not persuasive. Disagreement with an applicant's arguments, secondary considerations and supplied declarations is not evidence of improper bias.

In the Office action of July 27, 2006 the applicant accuses the examiner of "sarcastically musing as to why an institution would focus on students who sought admission elsewhere but did not meet standardized tests". Also, the applicant takes issue with the examiner's holding that the showing of commercial success lacks evidence that the students identified by the invention are actually successful at the institution in which they are ultimately enrolled. Apparently the examiner is questioning the assertion that the method is "unrivaled at finding diamonds in the rough". Clearly, to base patentability on secondary considerations such as commercial success and/or long felt need the examiner has every right to demand that there be a clear nexus between the claimed invention and any purported commercial success or satisfaction of a long felt need. When a claimed invention is otherwise taught by the prior art, it is the burden of the applicant to provide a persuasive showing of secondary considerations. Again, the examiner failing to be persuaded by the showing by the applicant is not evidence of bias.

Applicant also takes issue with the manner in which the examiner interprets the term "enrolled". The examiner is entitled, if not actually mandated, to use the broadest reasonable interpretation of claim language in the examination of the claimed invention.

Applicant further argues that, in the Office action of August 23, 2007, the examiner's holding of the claims being obvious based solely upon a declaration made by the examiner was clearly improper. It is noted that the applicant's claims, in addition to the above-noted examiner declaration, were also rejected under 35 USC 102(b) by a first piece of prior art, as well as under 103(a) by a second piece of prior art. It is also noted that the rejection made using the examiner declaration was withdrawn in the following Office action. Again, disagreement with a rejection made by an examiner is not evidence of bias.

Applicant next takes issue with an Office action dated March 8, 2008. Because there was no action mailed March 8, 2008, it is assumed that the action referred to is actually intended to be the Office action of May 22, 2008. The applicant takes issue with the holding of Official Notice taken by the examiner. The applicant finds "these instances to be particularly egregious because the examiner provides no support for the taking of official notice despite the fact applicant challenges the examiner's taking of official notice and requests documentary evidence supporting the examiner's position...". It is noted that a document was provided that supported the holding of Official notice in paragraph 15 of the Office action of May 22, 2008.

In the Office action of December 7, 2009, the applicant takes issue with the reference provided by the examiner in support of the holding of Official notice. The applicant continues to argue that the examiner's reading of the art is improper as is her application of the holding of Official notice. All of these issues go to the merits of the rejections made in the December 7, 2009 Office action and are not procedural in nature. As such, they are seen as appealable, not petitionable, and will not be further addressed here.

In conclusion, the standards for removing an examiner from an application due to examiner bias is a clear and convincing showing of behavior which is arbitrary and capricious with regard to the procedures used in the prosecution of the application in question. Nothing rising anywhere near this level has been shown to exist here. Certainly there have been many disagreements as to what references teach, what the scope of the claims actually are, and if the interpretations of the art and claimed invention by the examiner are proper. However, none of this shows anything more than the common difference of opinion that occurs regularly between an examiner and an applicant in the prosecution of a patent application. These disagreements go to the merits of the of the prosecution and are proper for decision on appeal.

No arbitrary or capricious behavior by the examiner has been shown by the applicant that would lead to a conclusion of improper bias exhibited by the examiner toward the applicant or applicant's application.

The petition for the removal of the examiner from this application of January 26, 2010 is **DENIED**.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

snm/snm: 3/1/10

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Technology Center 2100

Paper No.6

Michael A. Glenn
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of:	)	
Carter et al.	)	
Application No. 09/826,709	)	**DECISION ON REQUEST FOR**
Filed: July 15, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR AUTOMATIC CONVERSION OF ELECTRONIC MAIL TO AN INTERNET WEB SITE	)	

This is a decision on the Request To Withdraw from Representation filed July 15, 2002.

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

The request filed July 15, 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.

For James R. Matthews

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

cc: John Carter
950 Siskiyou Drive
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper 23

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

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DEC 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
PACKHAM et al.	:	
Application No. 09826,720	:	DECISION ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. 11223-002002	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.191(d). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c), mailed April 6, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 7, 2004. See MPEP 1215.04.

The instant petition was filed on the basis that the attorney of record never received the Notification of Non-Compliance action dated April 6, 2004. Petitioner submitted as evidence 1) a statement from practitioner stating that the Office action 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 Office action was not received; and 3) a copy of the docket record where the nonreceived Office action would have been entered had it been received which is attached to and referenced in the practitioner's statement.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $110 for large entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to the Technology Center Art Unit 3724 for appropriate action on the revised Appeal Brief (titled 'Reply to Action of April 6, 2004') filed with the instant petition on August 19, 2004.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Francis Henkel for

Brian Hearn
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 10

ROBERT E. WALTER
GE PLASTIC
ONE PLASTIC AVENUE
PITTSFIELD, MA 01201

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of :
Gabrie Hoogland, et al. :
Application No. 09/826,723 : ON PETITION
Filed: April 5, 2001 :
Attorney Docket No. 08CV05967 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2003, to revive the above-identified application.

The petition is **GRANTED.**

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

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center 1700, Art Unit 1712 for further processing.

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

Retta Williams

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

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GARDERE WYNNE SEWELL, LLP
3000 THANKSGIVING TOWER
1601 ELM STREET, SUITE 3000
DALLAS, TX 75201-4767

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OFFICE OF PETITIONS

In re Application of
Tim Mortenson, et al.
Application No. 09/826,728
Filed: April 5, 2001
Attorney Docket No. 123971-1007

ON PETITION

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

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 17, 2005. Receipt is acknowledged of the requisite issue/publication fee on November 28, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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Paper No. 8

LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Thomas Schafbauer et al	:	
Application No. 09/826,732	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. 01P06119 US	:	
(INTECH 3.0-047)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 22, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 23, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BERRY & ASSOCIATES P.C.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES, CA 90069

Mail Date: 04/21/2010

Applicant	: Gerard Pallipuram	: DECISION ON REQUEST FOR
Patent Number	: 7613834	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/826,733	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1787** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 10

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

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Winkler et al.	:	
Application No. 09/826,738	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. 7781.0209-00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed March 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 18, 2004. A Notice of Abandonment was mailed September 28, 2004.

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

The file is being forwarded to Technology Center 2100 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 16 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

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WASHINGTON, D.C. 20231
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Paper No. 5

Oblon Spivak McClelland Maier & Neustadt PC
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

In re Application of: Eric N. Williams et al.	)	
Application No. 09/826,814	)	
Filed: April 6, 2001	)	
For: METHOD AND SYSTEM FOR PROVIDING PROMOTIONS TO A CUSTOMER BASED ON THE STATUS OF PREVIOUS PROMOTIONS	)	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed April 6, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

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

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

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

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

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

Applicant's submission is deficient in that it merely reproduces the first sentence or portions of the Abstracts provided in each reference. 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).

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer

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

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Paper No. 8

WENDEROTH, LIND & PONACK LLP
Suite 800
2033 K Street, NW
Washington, DC 20006

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TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of)
SATO et al.)
Application No. 09/826,825)
Filed: April 6, 2001)
For: Permanent Magnet Motor and Rotor Thereof)

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on January 17, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on December 5, 2001, be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **granted**.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on January 15, 2002. The petition was filed within two weeks of the date of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on December 5, 2001 is hereby reset to run FROM THE RECEIPT DATE OF January 15, 2002.

The application file is being forwarded to the Central Files of Technology Center 2800 to await a response to the Office communication. No fee is required for the petition.

For Clayton E. Laballe

Edward Glick, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-4858

#6
12-19-02

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DEC 19 2002

Paper No. 6

George T. Marcou
KILPATRICK STOCKTON LLP
Suite 900
607 14th Street, NW
Washington, DC 20005

In re Application of:	)	
Adam Scott	)	
Application No. 09/826,856	)	**DECISION ON REQUEST FOR**
Filed: April 6, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR WEBSITE CONTENT INTEGRITY ASSURANCE	)	

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

James R. Matthews

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

cc: Edward J. Gaudino, Esq.
PREDICTIVE SYSTEMS, INC.
19 West 44th Street, 9th Floor
New York, NY 10036

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 04 2004

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,794,022 :
Issue Date: September 21, 2004 :
Application No. 09/826,900 :
Filed: April 6, 2001 :
Attorney Docket No. 205703US0X :

This is a decision on the petition filed October 8, 2004, under 37 CFR 1.183, to waive the rules of 37 CFR 3.81(a) and accept the correction of the assignee on the front page of the above-identified patent. This decision is also rendered in response to the renewed request for certificate of correction, pursuant to 37 CFR 1.323.

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

The request for a certificate of correction under 37 CFR 1.323 is **GRANTED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B), submitted May 5, 2004 failed to correctly identify the assignees.

In accordance with the request, and as the request agrees with Office assignment records, the assignee information will be corrected on the face of the patent as follows:

Assignee: KABUSHIKI KAISHA KOBE SEIKO SHO (KOBE STEEL LTD)
KOBE (JP)

Assignee: SUN ALUMINUM INDUSTRIES CO., LTD.
CHIBA (JP)

The fees for the petition ($130.00) and for the certificate of correction ($100.00) have been applied.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 01, 2008

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/826938 Patent No.: 7304752 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 2193

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/826,976	04/05/01	TOBINICK E	TOBINICK 3.0

HM42/1107

EZRA SUTTON, P.A.
PLAZA 9, 900 ROUTE 9
WOODBRIDGE NJ 07095

EXAMINER
CHANNAVAJJALA,L

ART UNIT	PAPER NUMBER
1615	3

DATE MAILED: 11/07/01

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

Commissioner of Patents and Trademarks

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

#3

EZRA SUTTON, P.A.
Plaza 9, 900 Route 9
Woodbidge, New Jersey
07095

In re Application of	:
Edward L. Tobinick, M.D.	:
Serial No.:09/826,976	:PETITION TO MAKE SPECIAL DECISION
Filed: April 5, 2001	:
Attorney Docket No.: 3.0-013	:

This is in response to applicants' petition filed April 4, 2001, to make the above-identified application special under the provisions of MPEP 708.02 VIII, based on accelerated examination. The delay in acting on this petition is regretted.

A new application may be granted special status provided that applicant complies with each of the following items.
(a) Submits a petition to make special accompanied by the fee
(b) Presents all claims directed to a single invention, or elects without traverse in response to a restriction requirement
(c) Submits a statement that pre-examination search was made
(d) Submits one copy of each reference and
(e) Submits a detailed discussion of references

Applicant has satisfied each of these provisions.

Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Julie E. Burke by letter addressed to the Group Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-3599.

J Burke for

John Doll
Group Director
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EZRA SUTTON, PA
PLAZA 9, 900 ROUTE 9
WOODBRIDGE, NJ 07095

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,419,944
Issue Date: July 16, 2002
Application No. 09/826,976
Filed: April 5, 2001
Attorney Docket No. TOBINICK 3.0-013

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed May 28, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/256,388, filed February 24, 1999, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed April 5, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-2638.

Any inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/826,976	04/05/2001	1611	1226	TOBINICK 3.0-013	39	13

CONFIRMATION NO. 7603

CORRECTED FILING RECEIPT

EZRA SUTTON, P.A.
Plaza 9, 900 Route 9
Woodbridge, NJ 07095

OC000000042631467

Date Mailed: 07/19/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Edward L. Tobinick, Los Angeles, CA;

Power of Attorney:
Ezra Sutton--25770

Domestic Priority data as claimed by applicant

This application is a CIP of 09/563,651 05/02/2000 PAT 6,471,961
and is a CIP of 09/666,068 12/11/2000 PAT 6,379,666
which is a DIV of 09/476,643 12/31/1999 PAT 6,177,077
which is a CIP of 09/275,070 03/23/1999 PAT 6,015,557
which is a CIP of 09/256,388 02/24/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/17/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/826,976**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

CYTOKINE ANTAGONISTS FOR THE TREATMENT OF LOCALIZED DISORDERS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Briggs and Morgan P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey D. Flood, et al.	:	
Application No. 09/826,979	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. 2695.01US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center 1700 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 13

Jack P. Friedman
Schmeiser, Olsen & Watts
3 Lear Jet Lane - Suite 201
Latham, New York 12110

JUL 28 2003

In re Application of	:	
Adae-Amoakoh et al.	:	
Application No. 09/827,014	:	ON PETITION
Filed: April 5, 2001	:	
For: Method and Structure for economical high	:	
density chip carrier	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed June 10, 2003, requesting the Group Director to exercise his authority to withdraw the finality of the final Office action mailed April 23, 2003.

BACKGROUND

A first Office action on the merits was issued on August 24, 2002, rejecting claims 1 through 9 and 20 as being unpatentable under 35 U.S.C. § 102 or 103 over a U.S. patent.

A response to the first Office action was timely filed and received in the Patent and Trademark Office (Office) on December 2, 2002. In this response, applicant substantially amendment claims 1-6, 9 and 20. Dependent claims 7 and 8 where effectively amended since their parent claim was amended.

A Final Rejection was issued on February 26, 2003, rejecting claims 1 through 9 and 20 as being unpatentable under 35 U.S.C. § 102 or 103 over a U.S. patent.

A request for reconsideration after the Final Rejection was filed on April 7, 2003.

In response to the request for reconsideration, a new Final Rejection was issued on April 23, 2003. This rejection relied on different art then the previous Final Rejection. The basis for

making this action Final was that the new grounds of rejection where necessitated by applicant amendment filed on December 2, 2003.

Petitioner seeks relief by filing a petition under 37 C.F.R. § 1.181, requesting that the finality of the final Office action of April 23, 2003, be withdrawn and that the proposed after final amendment filed on June 10, 2003 be entered.

REGULATIONS AND PRACTICE

M.P.E.P. § 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

CONCLUSION

In order to provide good customer service and further the prosecution of the application, the petition to withdraw the finality of the final Office action of April 23, 2003 is GRANTED;

The amendment filed on June 10, 2003, while be treated as a response to a non-final rejection and entered.

The application file is being forwarded to the Examiner for consideration of the amendment filed on June 10, 2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Osann, et al. :
Application No. 09/827,015 : ON PETITION
Filed: April 5, 2001 :
Attorney Docket No. LGHT 1047-0 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 31, 2003. Accordingly, this application became abandoned at midnight on January 31, 2003.

The file is being forwarded to Technology Center 2800 for review of the "RESPONSE," filed July 12, 2004, *in due course.*

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

MAIL

AUG 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK CA 94025

In re Application of:
James M. Barton, et al.
Application No.: 09/827,029
Filed: April 5, 2001
For: MULTIMEDIA TIME WARPING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 19, 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.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not include a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition is **DENIED**.

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** from the date of this decision.

The application is being forwarded to the Technology Center's Central Files and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

08-26-02

GP/2615

#4

OIPE JC95
AUG 2 3 2002
PATENT & TRADEMARK OFFICE

Express Mail mailing label no. EV 189455754 US
Date of Deposit August 23, 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 the Commissioner of Patents and Trademarks, Washington, D. C. 20231.

Jessica Pallach

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Barton et al.
Serial No: 09/827,029
Filed: April 5, 2001
Title: MULTIMEDIA TIME WARPING SYSTEM

Docket No.: TIVO0003C
Art Unit: 2615
Examiner: Unassigned

RECEIVED
AUG 3 0 2002
Technology Center 2600

August 23, 2002

Commissioner of Patents and Trademarks
BOX DAC
Washington DC 20231

REQUEST FOR RECONSIDERATION OF PETITION DECISION

Sir:

This is in response to the Denied Petition to Make Special dated 09 August 2002 for the above-referenced patent application.

1. The Information Disclosure Statement, 1449 Form, and cited references previously filed with the parent application U.S. Patent No. 6,233,389 are of record and have been considered by the Examiner.

2. As per 37 CFR § 1.102(d), MPEP §708.02, item II: Infringement, the Petition to Make Special for the above cited application is complete and should not be denied. The cited references were already of record and had been considered by the Examiner in the parent application.

Please charge any additional fees to Deposit Account No. 07-1445 (Order No. TIVO0003C).

Respectfully Submitted,

Kirk D. Wong
Reg. No. 43,284

Customer No. 22862

OIPE
AUG 2 3 2002
PATENT & TRADEMARK OFFICE

HVO 0003C

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Technology Center 2600

Paper No. 3

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AUG 0 9 2002
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK CA 94025

In re Application of:
James M. Barton, et al.
Application No.: 09/827,029
Filed: April 5, 2001
For: MULTIMEDIA TIME WARPING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 19, 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.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not include a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition is **DENIED**.

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** from the date of this decision.

The application is being forwarded to the Technology Center's Central Files and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 5

MAIL

SEP 27 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK CA 94025

In re Application of:
James M. Barton, et al.
Application No.: 09/827,029
Filed: April 5, 2001
For: MULTIMEDIA TIME WARPING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the request for reconsideration filed on August 23, 2002 regarding the decision (August 9, 2002) which denied the petition to make special of July 19, 2002.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition filed July 19, 2002 was denied for failure of petitioner to provide the required copies of the related references.

Petitioner argues that a copy of the related references was already of record and had been considered by the examiner in the parent application. Upon reconsideration, the references were of record and petitioner thus satisfies the requirement.

The request for reconsideration is **Granted.**.

The application is being forwarded to the examiner for action on the merits.

Reinhard J. Eisenzopf
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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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of
James M. Barton, et al.
Application No. 09//827,029
Filed: April 5, 2001
Attorney Docket No. 60097-0026

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed January 11, 2008. This decision precedes the mailing of a Notice of Abandonment. On July 25, 2008, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

DEC 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

GLENN PATENT GROUP
3475 Edison Way
Suite L
Menlo Park, CA 94025

In re Application of
Amit PATEL, et al
Application No. 09/827,030
Filed: April 5, 2001
For: CLIENT INSTALLATION AND EXECUTION SYSTEM FOR STREAMED APPLICATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 24, 2003.

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

The signer of the petition, Glenn M. Kubota, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorneys of record, nor can he effect a change of address. Accordingly, the request is **DENIED**.

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

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

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.
09/827,031	04/05/2001	Edward J. Boyle	40655.1000	4847

66170 7590 03/10/2009
Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3692	

NOTIFICATION DATE	DELIVERY MODE
03/10/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

HSOBELMAN@SWLAW.COM
DMIER@SWLAW.COM
JESLICK@SWLAW.COM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090114

DATE : March 12, 2009

TO SPE OF : ART UNIT 3696

SUBJECT : Request for Certificate of Correction on Patent No.: 7, 440, 918

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:

Request for corrections is denided because the changes would change the scope of the claims.

SPE: /Thomas Dixon/ **Art Unit** 3696

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

DADE BEHRING INC.
LEGAL DEPT. PATENTS
ATTN: LOIS K. RUSZALA
1717 DEERFIELD, RD., #778
DEERFIELD, IL 60015-0778

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NOV 2 6 2002

OFFICE OF PETITIONS

In re Application of :
William J. Devlin et al :
Application No. 09/827,045 :
Filed: April 5, 2001 :
Attorney Docket No. DCS-9119 CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 21, 2002, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of prior-filed nonprovisional Application No. 09/725,621, filed November 30, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on April 5, 2001, and was copending with Application No. 09/725,621, at the time of filing, from which priority is claimed. While a reference to the prior-filed nonprovisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(2)(i) 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)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the nonprovisional application in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of nonprovisional Application No. 09/725,621, in the transmittal letter submitted with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,280 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. 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 1743 for processing the amendment filed October 21, 2002 and for 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 Application No. 09/725,621 filed on November 30, 2000.

Frances Hicks

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

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[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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ALEXANDRIA, VA 22313-1450
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Paper No. 16

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DEC 2 4 2003

OFFICE OF PETITIONS

MACMILLAN, SOBANSKI & TODD
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

In re Application of
Joseph V. Bak et al
Application No. 09/827,046
Filed: April 5, 2001
Attorney Docket No. 2941

ON PETITION

This is a decision on the petition, filed December 5, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERKELEY LAW & TECHNOLOGY GROUP, LLP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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OFFICE OF PETITIONS

In re Application of	:	
Chuan-Yu Hsu et al	:	
Application No. 09/827,061	:	DECISION GRANTING PETITION
Filed: April 5, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 112.P14061	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 3, 2006, which set a shortened statutory period for reply of three (3) months. A one month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the above-identified application became abandoned on May 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination (RCE), $790 fee therefor, and submission as required by 37 CFR 1.114), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 3, 2006 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 $450 extension of time fee submitted with the petition on October 12, 2006 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) 272-3218.

This matter is being referred to Technology Center AU 2625 for processing the RCE and for appropriate action in the normal course of business on the amendment received October 12, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

Robert H. Rines
Rines and Rines
81 North State Street
Concord, NH 03301

COPY MAILED
MAR 1 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Robert H. Rines et al.	:	
Application No. 09/827,102	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. n/a	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

As to item (1), The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed May 11, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 12, 2001.

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

By mail: Mail Stop Petitions
Box DAC
Washington, D.C. 20231

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

By hand: Customer Service Window
2201 South Clark Place
Crystal Plaza 2, Room 1B03
Arlington, VA 22202

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

Latrice Bond

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

cc: Copy of Notice mailed May 11, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Rines and Rines
81 North State Street
Concord, NH 03301

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APR 0 6 2004
OFFICE OF PETITIONS

In re Application of :
Robert H. Rines et al. :
Application No. 09/827,102 :
Filed: April 5, 2001 :
Attorney Docket No. n/a :

ON PETITION

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

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers mailed May 11, 2001. The Notice set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on July 12, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THOMAS, KAYDEN,
HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339

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In re Application of	:	
Tsao, et al.	:	
Application No. 09/827,106	:	DECISION
Filed: 5 April, 2001	:	
Attorney Docket No. 252016-3320 (67,200-344)	:	

This is a decision on the petition filed on 18 July, 2008, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

> **NOTE**: It appears that part of this file is in the image file wrapper (IFW) and part in the paper file. For future reference of Petitioner and the Office staff it is important that both files be consulted until such time that the entire file is generated/consolidated in IFW.

The petition is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's (former Counsel's) failure to satisfy the Drawings Requirement of the Notice of Allowance/Allowability mailed on 28 January, 2003, with reply due under a non-extendable deadline on or before 28 April, 2003.

The application went abandoned after midnight 28 April, 2003.

The Office mailed the Notice of Abandonment on 13 June, 2003.

For Counsel appears to have made no inquiry of record thereafter until the filing of the original petition under 37 C.F.R. §1.181 to withdraw the holding of abandonment on 17 May, 2007. At that time, prior Counsel asserted that a reply was timely filed, and while neither the paper file nor Petitioner's original petition/submission support the averment, the Image File Wrapper indicates that drawings were submitted on 29 April, 2003, over a 24 April, 2003, certificate of mailing under 37 C.F.R. §1.8, however, because former Counsel not only failed to make the showing consistent with the guidance in the Commentary at MPEP §711.03(c), but also failed to do so timely under the rule (within two months of the act complained of), the petition was dismissed on 27 May, 2008.

The instant petition to revive under 37 C.F.R. §1.137(b) (with fee) was filed on 18 July, 2008, with a reply in the form of drawings and a statement of unintentional delay made by one other than the person under whose control the application went abandoned and Petitioner herein: (a) indicates that the statement of former Counsel is not available, and (b) did not have the inventor(s)/assignee(s) sign the statement of unintentional delay.

The record (including the petitions filed on 17 May, 2007, and 18 July 2008) does not necessitate a finding that the delay between midnight 28 April, 2003 (the date of abandonment), and 18 July, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, as a matter of record, the U.S. Patent and Trademark Office notes that it is relying in this matter on the duty of candor and good faith of Petitioner Daniel R. McClure (Reg. No. 38,962) when accepting Petitioner's representation that the delay in filing the response <u>was</u> unintentional, and that the Office is construing Petitioner's signature on the petition to indicate that Petitioner has made the inquiry necessary to make such representation to the Office.[1]

In the event that such an inquiry has not been made, Petitioner <u>must</u> 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 C.F.R. §1.137(b) was unintentional, Petitioner <u>must</u> notify the Office.

---

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a petition under 37 C.F.R. §1.137(b) are the petition and fee, the reply, the statement/showing of unintentional delay and, where appropriate, a terminal disclaimer and fee. It appears that the regulatory requirements have been satisfied herein.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAY 27 2008

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339

In re Application of	:	
Tsao, et al.	:	
Application No. 09/827,106	:	DECISION
Filed: 5 April, 2001	:	
Attorney Docket No. 67,200-344	:	

This is a decision on the petition, filed 17 May, 2007, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

(A $100.00 fee was submitted and Petitioner (identified as the supporting provision "37 C.F.R. §2.66," however there is no such provision appears in the Rules of Practice.)

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." (If Petitioner cannot satisfy the evidentiary requirements necessary for a petition to withdraw the holding of abandonment to be granted, Petitioner may alternatively file a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional.

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A proper showing requires at the very minimum:

- A statement from practitioner stating that the Office action was not received by the practitioner;
- A statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and
- A **brief** statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively:

- A statement from practitioner stating that the reply was timely submitted by the practitioner;
- Copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's (former Counsel's) failure to satisfy the Drawings Requirement of the Notice of Allowance/Allowability mailed on 28 January, 2003, with reply due under a non-extendable deadline on or before 28 April, 2003.

The application went abandoned after midnight 28 April, 2003.

The Office mailed the Notice of Abandonment on 13 June, 2003.

Petitioner appears to have made no inquiry of record thereafter until the filing of the instant petition.

On 17 May, 2007, Petitioner asserted that a reply was timely filed, and while neither the paper file nor Petitioner's instant submission support the averment, the Image File Wrapper now indicates that drawings were submitted on 29 April, 2003, over a 24 April, 2003, certificate of mailing under 37 C.F.R. §1.8.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

---

[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

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).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

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

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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

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.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed to timely seek relief under the rule and failed to submit the showing required.

CONCLUSION

Accordingly, absent the required evidence to establish nonreceipt of the Notice to File Missing Parts and Notice of Incomplete Reply, described above, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time. The petition is **dismissed**.

ALTERNATIVE VENUE

If Petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, Petitioner should consider filing a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. §41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. §41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

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

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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#14

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339

COPY MAILED

AUG 2 6 2008

In re Application of	:	
Tsao, et al.	:	
Application No. 09/827,106	:	DECISION
Filed: 5 April, 2001	:	
Attorney Docket No. 252016-3320 (67,200-344)	:	

This is a decision on the petition filed on 18 July, 2008, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

> **NOTE**: It appears that part of this file is in the image file wrapper (IFW) and part in the paper file. For future reference of Petitioner and the Office staff it is important that both files be consulted until such time that the entire file is generated/consolidated in IFW.

The petition is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's (former Counsel's) failure to satisfy the Drawings Requirement of the Notice of Allowance/Allowability mailed on 28 January, 2003, with reply due under a non-extendable deadline on or before 28 April, 2003.

The application went abandoned after midnight 28 April, 2003.

The Office mailed the Notice of Abandonment on 13 June, 2003.

For Counsel appears to have made no inquiry of record thereafter until the filing of the original petition under 37 C.F.R. §1.181 to withdraw the holding of abandonment on 17 May, 2007. At that time, prior Counsel asserted that a reply was timely filed, and while neither the paper file nor Petitioner's original petition/submission support the averment, the Image File Wrapper indicates that drawings were submitted on 29 April, 2003, over a 24 April, 2003, certificate of mailing under 37 C.F.R. §1.8, however, because former Counsel not only failed to make the showing consistent with the guidance in the Commentary at MPEP §711.03(c), but also failed to do so timely under the rule (within two months of the act complained of), the petition was dismissed on 27 May, 2008.

The instant petition to revive under 37 C.F.R. §1.137(b) (with fee) was filed on 18 July, 2008, with a reply in the form of drawings and a statement of unintentional delay made by one other than the person under whose control the application went abandoned and Petitioner herein: (a) indicates that the statement of former Counsel is not available, and (b) did not have the inventor(s)/assignee(s) sign the statement of unintentional delay.

The record (including the petitions filed on 17 May, 2007, and 18 July 2008) does not necessitate a finding that the delay between midnight 28 April, 2003 (the date of abandonment), and 18 July, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, as a matter of record, the U.S. Patent and Trademark Office notes that it is relying in this matter on the duty of candor and good faith of Petitioner Daniel R. McClure (Reg. No. 38,962) when accepting Petitioner's representation that the delay in filing the response <u>was</u> unintentional, and that the Office is construing Petitioner's signature on the petition to indicate that Petitioner has made the inquiry necessary to make such representation to the Office.[1]

In the event that such an inquiry has not been made, Petitioner <u>must</u> 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 C.F.R. §1.137(b) was unintentional, Petitioner <u>must</u> notify the Office.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a petition under 37 C.F.R. §1.137(b) are the petition and fee, the reply, the statement/showing of unintentional delay and, where appropriate, a terminal disclaimer and fee. It appears that the regulatory requirements have been satisfied herein.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Chaojun Deng	: DECISION ON REQUEST FOR
Patent Number	: 7602804	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/827,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1000** 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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6478618	2002-11-12	09827148	2001-04-06	3107-062

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2007-11-03
Name	Bruce H. Troxell	Registration Number	26592

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6478618
Issue Date: November 12,2002
Application No. 09827148
Filed: April 6,2001
Attorney Docket No. BHT-3107-62

:

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

:

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

The petition is GRANTED.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF THE DIRECTOR
TC 3600

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re application of		
Donald B. Harris	:	
Application No. 09/827,173	:	**DECISION ON REQUEST**
Filed: April 6, 2001	:	**FOR WITHDRAWAL OF**
For: HYBRID POWER SUPPLY MODULE	:	**ATTORNEY**

This is a decision on the request filed on December 17, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date

of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

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

As to condition A), the attorneys associated with Customer No. 22428 do not correspond with those named in the Power of Attorney in the declaration thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

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

SNM/mjz: 2/24/04

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

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DEC 0 6 2001

OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of Bondy, et al. Application No. 09/827,219 Filed: April 5, 2001 Attorney Docket No.: CE08166R For: COMMUNICATION NETWORK AND METHOD FOR PROVIDING SURVEILLANCE SERVICES	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 23, 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 April 5, 2001 without an executed oath or declaration and naming William Michael Bondy, Robert Gerald Hug, Wesley Stuart Johns, Raymond M. Liss, Timothy L. Moran, Howard Nodell, Shmuel Silverman, and Bruce Martin Wiatrak as joint inventors.

Accordingly, on May 17, 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. In response, on August 23, 2001, the instant petition along with a petition for an extension of time was filed.

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) set forth above.

As to item (1), the petition lacks sufficient evidence to establish that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented

with the application papers, refuses to sign the oath or declaration.

The declaration of Karen Kass submitted with the instant petition indicates that on July 19, 2001, an attempt to present the application papers to the non-signing inventor was made when the application papers were mailed to the inventor at the inventor's last known address via Federal Express®. Declarant states that attempts to deliver the package containing the application papers were unsuccessful. Declarant alleges that Federal Express® informed her that an individual identifying herself as Timothy Moran's wife refused to accept the package, indicated she didn't know where Timothy Moran was, and stated she had no forwarding address. Declarant further states that no additional attempts were made to locate Timothy Moran because declarant believed "further efforts to contact Timothy Moran would be futile."

Petitioner is required to undertake additional efforts to locate and present a copy of the application papers (specification, claims, and drawings) to the non-signing inventor.

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be made. Details regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by the person or persons having first hand knowledge of the efforts made to locate the inventor.

Petitioner should note that while the petition indicates the last known address of non-signing inventor to be 708 Carriage Hill Road, Island Lake, Illinois, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicated that as recently as April, 2001, the inventor resided in Denton, Texas.

Any renewed petition must be supported by evidence that *bona fide* effort has been made to locate the inventor. If the inventor is located and presented with a copy of the application papers (specification, claims, and drawings), and the inventor thereafter evidences a refusal to execute the application papers, this fact should be made known in a declaration by one having first hand knowledge of the refusal be it verbal or written.

As to item (2), the declaration submitted herewith is objected to because it contains alterations that have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

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

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

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Christina L. Donnell for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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FEB 13 2002

OFFICE OF PETITIONS

In re Application of
William Michael Bondy, Wesley Stuart Jones,
Shmuel Silverman, Bruce Martin Wiatrak,
Raymond M. Liss, Timothy L. Moran, Howard
Nodell, and Robert Gerald Hug
Application No. 09/827,224
Filed: April 5, 2001
Attorney Docket No. CE08166R
Title: COMMUNICATION NETWORK
WITH A COLLECTION GATEWAY AND
METHOD FOR PROVIDING
SURVEILLANCE SERVICES

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 20, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) a declaration which complies with 37 CFR §1.63.

The above-identified application was filed on April 5, 2001, identifying William Michael Bondy, Wesley Stuart Jones, Shmuel Silverman, Bruce Martin Wiatrak, Raymond M. Liss, Timothy L. Moran, Howard Nodell, and Robert Gerald Hug as joint-inventors. On May 14, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63[2] and a surcharge for This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee)[3], and a declaration of Karen Kass (an administrative assistant in the law department of the purported assignee). To make timely this reply, a two-month extension of time was charged to counsel's Deposit Account, as authorized.

The declaration of Ms. Kass sets forth that on July 19, 2001, she mailed a complete copy of the application, drawings, declaration with power of attorney, and the assignment documents to the last known address of the non-signing inventor. On July 23, 2001, a Federal Express agent telephoned her to inform her that delivery was unsuccessfully attempted on July 20, 2001 and July 23, 2001. The Federal Express agent further informed the declarant that the resident at the house identified herself as the wife of the non-signing inventor, and stated that she was unaware of his whereabouts.

Rule 47 applicant has met requirements (1), (2), (3), and (4) above.

Regarding the fifth requirement, Petitioner has failed to submit a declaration which complies with 37 CFR §1.63. The declaration has numerous un-initialed changes, several inventors are crossed out, and the declaration does not correctly list the order of inventors[4]. As such, it is not possible to determine from the declaration who the actual inventors are. A clean copy of the declaration will be required.

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

2 The oath or declaration was not signed by inventor Moran.
3 The petitioner has failed to include the surcharge associated with the late filing of an oath or declaration. This fee of $65.00 has been charged to petitioner's Deposit Account, as authorized in the petition.
4 For example, Cormer and Hug are both listed as the eighth inventor, Nodell, Silverman, Wiatrak, and Moran are all designated as the third inventor).

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

Jon D Wood

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

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United States Patent and Trademark Office
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Paper No. 8

MOTOROLA, INC.
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SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of William Michael Bondy, Wesley Stuart Jones, Shmuel Silverman, Bruce Martin Wiatrak, Raymond M. Liss, Timothy L. Moran, Howard Nodell, and Robert Gerald Hug Application No. 09/827,224 Filed: April 5, 2001 Attorney Docket No. CE08166R Title: COMMUNICATION NETWORK WITH A COLLECTION GATEWAY AND METHOD FOR PROVIDING SURVEILLANCE SERVICES	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed February 13, 2002.

The above-identified application was filed on April 5, 2001, identifying William Michael Bondy, Wesley Stuart Jones, Shmuel Silverman, Bruce Martin Wiatrak, Raymond M. Liss, Timothy L. Moran, Howard Nodell, and Robert Gerald Hug as joint-inventors. On May 14, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63[2] and a surcharge for This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) a declaration which complies with 37 CFR §1.63.

2 The oath or declaration was not signed by inventor Moran.

In reply, the applicant filed the original petition[3], along with a declaration of Karen Kass (an administrative assistant in the law department of the purported assignee).

This petition was dismissed in a decision mailed on February 13, 2002, for failure to meet the fifth requirement above. The submitted declaration has numerous un-initialed changes, several inventors are crossed out, and the declaration does not correctly list the order of inventors[4]. As such, it is not possible to determine from the declaration who the actual inventors are. It was indicated that a clean copy of the declaration would be required.

With this renewed petition, petitioner has submitted a declaration which contains the signature of the previously non-signing inventor, thus proposing joinder of the formerly non-signing inventor. Unfortunately, this declaration contains the same defects found in the previously submitted declaration, and a new declaration which complies with 37 CFR §1.63 is required.

Therefore, this renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Your response to this letter *must* be submitted within ONE (1) MONTH from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The response should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §1.137(b)."

Once this opportunity has passed, *there will be no further reconsideration of this matter.*

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: Paul Shanoski, Office of Petitions

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

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

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3 The original petition was filed on August 20, 2001.
4 As indicated previously, an example of this can be seen with inventors Cormer and Hug, who are both listed as the eighth inventor, while Nodell, Silverman, Wiatrak, and Moran are all designated as the third inventor).

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 22202

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

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

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Paper No. 9

MOTOROLA, INC.
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SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of William Michael Bondy, Wesley Stuart Jones, Shmuel Silverman, Bruce Martin Wiatrak, Raymond M. Liss, Timothy L. Moran, Howard Nodell, and Robert Gerald Hug Application No. 09/827,224 Filed: April 5, 2001 Attorney Docket No. CE08166R Title: COMMUNICATION NETWORK WITH A COLLECTION GATEWAY AND METHOD FOR PROVIDING SURVEILLANCE SERVICES	DECISION VACATING PREVIOUS DEICION, NOTING JOINDER OF INVENTOR, AND DISMISSING PETITION UNDER 37 CFR 1.47(a) AS MOOT

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed April 11, 2002.

The above-identified application was filed on April 5, 2001, identifying William Michael Bondy, Wesley Stuart Jones, Shmuel Silverman, Bruce Martin Wiatrak, Raymond M. Liss, Timothy L. Moran, Howard Nodell, and Robert Gerald Hug as joint-inventors. On May 14, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63[2] and a surcharge for This Notice set a two-month period for reply.

In reply, the applicant filed the original petition[3], along with a declaration of Karen Kass (an

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) a declaration which complies with 37 CFR §1.63.

2 The oath or declaration was not signed by inventor Moran.
3 The original petition was filed on August 20, 2001.

administrative assistant in the law department of the purported assignee).

This petition was dismissed in a decision mailed on February 13, 2002, for failure to meet the fifth requirement above. The submitted declaration had several deficiencies.

That same day, a response was received. Though it was not realized at the time, this response contained a certificate of mailing dated January 30, 2002 (which predates the mailing of the decision on the original petition), and bears an attorney docket number which does not match with the instant application. As pointed out by the petitioner in a phone conversation, it appears that the wrong response was filed.

On April 11, 2002, petitioner filed the intended response to the decision mailed February 13, 2002. With this renewed petition, petitioner submitted a declaration which contains the signature of the previously non-signing inventor, thus proposing joinder of the formerly non-signing inventor.

Consequently, the renewed petition is **DISMISSED AS MOOT**, and the decision mailed on July 1, 2002, is hereby **VACATED**.

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

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

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

Nancy Johnson for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
David R. Hembree :
Application No. 09/827,248 : ON PETITION
Filed: April 4, 2001 :
Attorney Docket No. MI22-1684\US

This is a decision on the petition filed, May 1, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 30, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
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601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
David R. Hembree	:	
Application No. 09/827,248	:	ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. MI22-1684/US	:	

This is a decision on the petition, filed December 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 August 9, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2829 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

HENRY M. FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jurgen Kleinwachter	:	
Application No. 09/827,250	:	
Filed: April 5, 2001	:	
Attorney Docket No. KLEINWACHTER-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 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 October 25, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 26, 2003.

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

This file is being forwarded to Technology Center AU 1753 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 0 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Chief Patent Counsel
Smith & Nephew, Inc.
1450 Brooks Road
Memphis, TN 38116

Paper No. 21

In re Application of J. Taylor et al Serial No. : 09/827,252 Filed : April 5, 2001 For : Orthopaedic Fixation Device	: DECISION ON PETITION : TO RE-MAIL : OFFICE ACTION : AND RESET PERIOD : FOR REPLY

This is a decision on petitioner's request filed August 12, 2004, requesting the re-mailing of the Office action mailed May 28, 2004 and that the period for response to that action be restarted to begin with the new mailing date of the Office action. There is no fee required for this petition.

An inspection of the file clearly indicates that petitioner is correct in his assertion that the Office action in question was not received as the file copy as well as applicant's copy of the Office action allegedly mailed May 28, 2004 were found in there.

Accordingly, the request to re-mail the Office action of May 28, 2004 and to reset the period for response to begin with the new mailing date of the Office action is GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of May 28, 2004.

Summary: Request to re-mail Office action of May 28, 2004 granted.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/10/05/04

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Alexandria, VA 22313-1450
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BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of :
Jeffrey Tze Fei Wong et al :
Application No. 09/827,255 :
Filed: April 5, 2001 :
Attorney Docket No. 1441830001336 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 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 on March 3, 2004.

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

The application is being forwarded to Technology Center AU 1635 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of
James G. Skakoon, et al
Application No. 09/827,266
Filed: April 5, 2001
Attorney Docket No. 723.041US1

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 June 27, 2007.

The request is **APPROVED**.

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

The request was signed by David C. Peterson on behalf of all attorneys of record associated with Customer Number 21186.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JAMES G. SKAKOON
1115 ELWAY STREET #404
ST. PAUL, MN 55116

cc: RICHARD W. WARNER
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/827,266	04/05/2001	James G. Skakoon	50741-000005/US/01

CONFIRMATION NO. 4355

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000027149466

Date Mailed: 12/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: James G. Skakoon	: DECISION ON REQUEST FOR
Patent Number	: 7660621	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/827,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1754** 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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APR 16 2002

OFFICE OF PETITIONS

In re Application of	:	
Stephane Kasriel et al	:	
Application No. 09/827,268	:	NOTICE
Filed: April 4, 2001	:	
Attorney Docket No. 155.1003.02	:	

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 2176.

Wan Laymon

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

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MINNEAPOLIS, MN 55402

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephane Kasriel et al	:	
Application No. 09/827,268	:	ON PETITION
Filed: April 4, 2001	:	
Attorney Docket No. 155.1003.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 10, 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 September 11, 2004.

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

This matter is being referred to Technology Center 2178.

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

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Thomas E. Lee, et al. :
Application No. 09/827,277 : ON PETITION
Filed: April 5, 2001 :
Attorney Docket No. 00684.0006NPUS00 :

This is a decision on the petition, filed June 6, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to BISCO, INC. the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is BISCO, INC. and that the assignee's name was unintentionally not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to BISCO, INC.

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

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

[1] *See* Official Gazette of June 22, 2004

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to BISCO, INC. has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that BISCO, INC. was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth BISCO, INC., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3223. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Quraishi et al.	:	
Application No. 09/827,333	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. 62225-160	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 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 a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Ernesto C. Barreyro et al
Application No. 09/827,447
Filed: April 6, 2001
Attorney Docket No. 7190

DECISION DISMISSING PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed February 7, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is ***LG Electronics Inc.***, and that an incorrect assignee's name was unintentionally included on the Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to LG Electronics Inc.

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 instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by

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[1] *See* Official Gazette of June 22, 2004

3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to LG Electronics Inc. has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that LG Electronics Inc. was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth LG Electronics Inc., as the assignee</u>**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***<u>must</u>*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Karen Creasy at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any

questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

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

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OFFICE OF PETITIONS

HOLLAND & KNIGHT
10 ST. JAMES AVENUE
BOSTON MA 02116

In re Application of	:	
Jane Wen Chang et al	:	
Application No. 09/827,500	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. 11646-013001	:	

This is a decision on the petition, filed February 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 29, 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 2162 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	DECISION ON APPLICATION
Application No. 09/827,500	:	FOR
Filed: April 6, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 103594.00002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed June 6, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to four hundred sixty-four (464) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **two hundred sixty-three (263)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 9, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 6, 2006, applicants timely submitted the instant application for patent term adjustment[1]. Applicants assert entitled to a period of adjustment of 222 days for the Office taking until December 20, 2004, not February 27,

[1] PALM records indicate that the Issue Payment was filed on June 9, 2006.

2004, to respond to their amendment filed January 12, 2004. Further, applicants dispute the reduction of 301 days for their filing of a response to the non-final Office action mailed February 27, 2004 (and re-mailed on December 20, 2004) on March 24, 2005.

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

Applicants' arguments have been considered, but not found fully persuasive. Entry of a period of adjustment of 222 days is not warranted. A review of the application history confirms that in response to and within four months of applicants' filing of an amendment after non-final Office action on January 12, 2004, the Office on February 27, 2004 mailed a non-final Office action. This Office action was properly mailed to the correspondence address of record. However, applicants did not receive the Office action. The record does not support a conclusion that the failure to receive the Office action was due to any error on the part of the Office. (A copy of the first page of the Office action as originally mailed is present in the image file wrapper with the contents of the re-mailed Office action mailed December 20, 2004). Thus, there was no examination delay within the meaning of 1.702(a)(2).

Correction of the period of reduction for responding to the Office action is required. As the Office action was not received, the Office action was re-mailed and the period for reply restarted (The entry "Mail Notice of Restarted Response Period" reflects that the original Office action was re-mailed with a new response period). Applicants' delay pursuant to 1.704(b) is properly calculated based on the date of re-mailing of the Office action, December 20, 2004. Accordingly, the period of reduction pursuant to 1.704(b) for applicants taking until March 24, 2005 to respond is 4 days, not 301 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 263 days.

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

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

adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Sunday
Date: 10/1/2006

PALM INTRANET

Time: 18:14:23

PTA Calculations for Application: 09/827500			
Application Filing Date:	04/06/2001	PTO Delay (PTO):	298
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	332
Post-Issue Petitions:	0	Total PTA (days):	263
PTO Delay Adjustment:	297		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
84	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	301		
75	03/09/2006	MAIL NOTICE OF ALLOWANCE			
74	03/09/2006	MAIL EXAMINER'S AMENDMENT			
73	03/06/2006	ISSUE REVISION COMPLETED			
72	03/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	03/06/2006	EXAMINER'S AMENDMENT COMMUNICATION			
70	03/06/2006	NOTICE OF ALLOWABILITY			
69	09/11/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	02/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	02/17/2006	REFERENCE CAPTURE ON IDS			
66	02/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	03/02/2006	DATE FORWARDED TO EXAMINER			
64	02/17/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
63	03/02/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
62	02/21/2006	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
61	02/17/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
60	02/17/2006	PETITION ENTERED			
59	02/07/2006	EXPORT TO FINAL DATA CAPTURE			
58	02/03/2006	FINISHED INITIAL DATA CAPTURE			
57	02/03/2006	DISPATCH TO FDC			

56	12/29/2005	MISCELLANEOUS INCOMING LETTER			
55	01/13/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
54	12/29/2005	ISSUE FEE PAYMENT VERIFIED			
53	12/29/2005	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
52	12/29/2005	ISSUE FEE PAYMENT RECEIVED			
51	12/13/2005	CORRESPONDENCE ADDRESS CHANGE			
50	10/11/2005	EXPORT TO INITIAL DATA CAPTURE			
49	10/04/2005	MAIL NOTICE OF ALLOWANCE			
48	10/04/2005	MAIL EXAMINER'S AMENDMENT			
47	09/30/2005	ISSUE REVISION COMPLETED			
46	09/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	09/30/2005	EXAMINER'S AMENDMENT COMMUNICATION			
44	09/30/2005	NOTICE OF ALLOWABILITY			
43	09/11/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	09/23/2005	PRELIMINARY AMENDMENT			
41	09/08/2005	DATE FORWARDED TO EXAMINER			
40	08/24/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	09/08/2005	DATE FORWARDED TO EXAMINER			
38	08/24/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	09/08/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	08/24/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	07/18/2005	CORRESPONDENCE ADDRESS CHANGE			
34	06/16/2005	MAIL FINAL REJECTION (PTOL - 326)			
33	06/13/2005	FINAL REJECTION			
32	04/06/2005	DATE FORWARDED TO EXAMINER			
31	03/24/2005	RESPONSE AFTER NON-FINAL ACTION		301	24
30	03/24/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	12/29/2003	REFERENCE CAPTURE ON IDS			
28	12/20/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
27	12/02/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			

26	12/02/2004	CORRESPONDENCE ADDRESS CHANGE			
25	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
24	02/27/2004	MAIL NON-FINAL REJECTION			
23	02/23/2004	NON-FINAL REJECTION			
21	01/22/2004	DATE FORWARDED TO EXAMINER			
20	01/12/2004	RESPONSE AFTER NON-FINAL ACTION			
19	12/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	12/12/2003	MAIL NON-FINAL REJECTION			
17	12/09/2003	NON-FINAL REJECTION			
16	11/25/2003	DATE FORWARDED TO EXAMINER			
15	11/14/2003	AMENDMENT AFTER FINAL REJECTION		31	13
14	11/14/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	07/14/2003	MAIL FINAL REJECTION (PTOL - 326)			
12	07/11/2003	FINAL REJECTION			
11	07/01/2003	DATE FORWARDED TO EXAMINER			
10	06/24/2003	RESPONSE AFTER NON-FINAL ACTION			
9	03/31/2003	MAIL NON-FINAL REJECTION	298		-1
8	03/24/2003	NON-FINAL REJECTION			
7	03/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	06/06/2002	NEW OR ADDITIONAL DRAWING FILED			
5	07/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	05/14/2001	APPLICATION DISPATCHED FROM OIPE			
3	05/11/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/19/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/06/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	DECISION ON APPLICATION
Application No. 09/827,500	:	FOR
Filed: April 6, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 103594.00002	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE DECISION ON THE APPLICATION FOR PATENT TERM ADJUSTMENT" filed October 30, 2006. Applicants request reconsideration of the decision on application for patent term adjustment mailed October 2, 2006.

The request for reconsideration of decision on application for patent term adjustment is **GRANTED to the extent indicated herein**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Prior to a decision being rendered on this request, the patent issued with a revised patent term adjustment of 506 days. This included entry of a period of adjustment of 207 for the Office taking in excess of 3 years to issue the patent.

For the reasons stated herein, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred twenty-one **(521)** days.

On March 9, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment

(PTA) to date is 0 days. On June 6, 2006, applicants timely filed the initial application for patent term adjustment. By decision mailed October 2, 2006, the application for patent term adjustment was granted to the extent that the initial determination of patent term adjustment was corrected to two hundred sixty-three (263) days (not 464 days as requested by applicants).

On instant renewed petition, applicants again allege that the Office erred in charging 301 days of delay against applicant and request additional days of patent term adjustment. Applicants point out that the Office action mailed February 27, 2004, was in fact mailed to a wrong address. In addition, applicants point out what they deem to be inconsistencies in the transaction history of PAIR and the image file wrapper.

Preliminarily, applicants are advised that there are line item entries in PAIR (such as "Non-Final Rejection" usually preceding "Mail Non-Final Rejection"), which will have no corresponding papers in IFW. The patent term adjustment calculations are not based on such entries. The calculation is based on the date of mailing of Office actions/notices and the date of receipt of applicant responses. Thus, on application for patent term adjustment, the undersigned will make a careful review of the dates of mailing and dates of receipt of such papers.

As to the disputed 301 days of applicant delay, it is specifically noted that the determination that the patent term adjustment needed correction to 263 days was based on correction of the period of reduction for applicant delay from 301 days to 4 days. Applicants do not now dispute the correction to 4 days. Thus, reconsideration of this calculation is unnecessary.

Rather, on previous decision, entry of a period of adjustment of 222 days was determined not to be warranted because of a conclusion that the Office action mailed February 27, 2004 was properly mailed to the correspondence address of record. This is the basis of applicants' dispute. On instant renewed petition, applicants correctly point out that the Office action was mailed to the wrong address. Thus, there was examination delay within the meaning of 1.702(a)(2). It is concluded that a period of adjustment of 222 days is proper for the Office taking until December 20, 2004 to take action in response to applicants' response filed January 12, 2004.

However, given entry of the 222 days for Office delay, entry of a period of adjustment of 207 days for the Office taking in excess of three years to issue the patent is not warranted.

It is agreed that the instant patent issued 3 years and 952 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a first RCE was filed on August 24, 2005. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended August 24, 2005. Accordingly, the period of adjustment under § 1.702(b) is 505 days, counting the number of days beginning on April 7, 2004 and ending on August 24, 2005.

Moreover, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of

Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the periods of delay totalling 556 days attributable to grounds specified in § 1.702(a)(1), (2) and (4) overlap with the 505 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 556 days.

In view thereof, the patent should have issued with a revised patent term adjustment of five hundred twenty-one (521) days. (556 days of Office delay reduced by 35 days of applicant delay).

No fee is required on instant petition for reconsideration of decision on patent term adjustment and no fee has been charged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred twenty-one **(521)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,136,846 B2

DATED : November 14, 2006

INVENTOR(S) : Chang et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (506) days

Delete the phrase "by 506" and insert – by 521 days--

OIPE JC98
MAR 14 2005
PATENT & TRADEMARK OFFICE

PATENT
Customer No. 22,852
Attorney Docket No. 9530.0001-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Stephen A. SMITH	Group Art Unit: 2166
Application No.: 09/827,531	Examiner: Not Yet Assigned
Filed: April 6, 2001	
For: METHOD OF AND APPARATUS FOR FORECASTING ITEM AVAILABILITY	Confirmation No.: 6381

APPROVED 5/25/05

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

I hereby request, on behalf of myself and all of the attorneys and agents associated with my firm and customer number 22,852, that we be allowed to withdraw as attorneys and agents of record for the patent application identified above. This request is made in triplicate.

The reason for this request is due to a breakdown in communications with the Applicant resulting in an unworkable attorney-client relationship. No actions are pending in the U.S. Patent and Trademark Office.

Please change the correspondence address and direct all future correspondence to: StoreSight Systems Incorporated, dba FMS, Inc., 309 Emerson Street, Palo Alto, California, 94306

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: March 14, 2005

By: _____
C. Larry O'Rourke
Reg. No. 26,014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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APR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Jie Tang et al.	: DECISION ACCORDING STATUS
Reissue Application No. 09/827,605	: UNDER 37 CFR 1.47(a)
Filed: April 6, 2001	:
Attorney Docket No. 17564-145	:

This is in response to the petition under 37 CFR 1.47(a), filed April 4, 2005.

The petition is GRANTED.

The above-identified reissue application was filed on April 6, 2001. The application names Jie Tang, Gary B. Hess, Mark D. Muszynski and Thomas S. Goehring as joint inventors. Subsequent to the filing of the reissue application, additional amendments have been filed necessitating a supplemental reissue declaration. Accordingly, pursuant to 37 CFR 1.172, the reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided....

The supplemental reissue oath/declaration has been properly executed by joint inventors Tang, Hess and Goehring. The applicant shows that Mr. Muszynski signed the reissue oath/declaration previously filed and that the Supplemental reissue oath/declaration was sent to Mr. Muszynksi. This petition is filed alleging that joint inventor Mark D. Muszynski refuses to sign the supplemental reissue oath /declaration and seeks status under 37 CFR 1.47(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.

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

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

This matter is being referred to Technology Center 1742 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK MUSZYNSKI
2012 TULLY WREN NE
MARIETTA, GA 30066

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APR 15 2005

OFFICE OF PETITIONS

In re Application of
Jie Tang et al.
Application No. 09/872,605
Filed: April 6, 2001
For: APPARATUS AND METHOD FOR MAKING UNIFORMLY SIZED AND SHAPED SPHERES

Dear Mr. Muszynski:

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 the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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Paper No. 13

Reena Kuyper, Esq.
Byard Nilsson, Esq.
9220 Sunset Boulevard
Suite 315
Los Angeles, CA 90069

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of
Ronald A. Katz
Application No. 09/827,614
Filed: April 5, 2001
Attorney Docket No. 6646-101NR

ON PETITION

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

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

In response to non-final Office action, petitioner submitted with the instant petition $1300 for the petition to revive fee, an Amendment, a Terminal Disclaimer under 37 CFR 1.321, $110 filing fee for the Terminal Disclaimer, an Information Disclosure Statement (IDS), and the required $180 for the filing of the Information Disclosure Statement.

Since all the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 2600, for review of the Amendment, Terminal Disclaimer and Information Disclosure Statement filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

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United States Patent and Trademark Office
P.O. Box 1450
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CHICAGO IL 60661

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Schumacher et al. :
Application No. 09/827,633 :
Filed: April 6, 2001 :
Attorney Docket No. SIE6208P0020US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed on November 24, 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(a)" or "Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on October 4, 2004, for failure to submit timely drawings in response to the Notice Regarding Drawings mailed on August 3, 2004, which set a two (2) month non-extendable period for reply. A Notice of Abandonment was mailed on November 12, 2004.

Petitioner states that a document entitled Submission of Formal Drawings, including substitute drawings of Figures 1-3, was sent via Federal Express Overnight mail by Joel E. Siegel, attorney of record, to his employee, Somchay Chinyavong, for hand carrying of the drawings and further consultation with the draftsperson if necessary. Petitioner states that the Federal Express package to Ms. Chinyavong indicated the correct address but did not include the suite number. The undelivered Federal Express package was returned to Mr. Siegel on October 20, 2004. Mr. Siegel states

that Federal Express did not contact him or Ms. Chinyavong, even though the package identified their correct telephone numbers, to notify them that the package would not be delivered. Mr. Siegel asserts that numerous Federal Express packages have been delivered to Ms. Chinyavong previously without the suite number. Mr. Siegel argues that the failure to file the drawings was unavoidable because he reasonably relied upon the trustworthy Federal Express Service to make a timely delivery to his employee.

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

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy

> agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Initially, the Office notes that Mr. Siegel assumed the risk that the drawings may not be timely filed with the USPTO when he chose to send them to his employee rather than mailing the documents directly to the USPTO. This situation could have been avoided if Mr. Siegel had used the certificate of mailing procedure specified in 37 CFR 1.8 or the Express Mail procedure specified in 37 CFR 1.10.

Additionally, Mr. Siegel states that he relied upon the trustworthy Federal Express Overnight Delivery Service to deliver the package to his employee. He did not rely on Federal Express to deliver the package to the USPTO. Moreover, Mr. Siegel admits that the Federal Express package did not indicate the suite number.

If petitioner implemented the procedures of 37 CFR 1.8 or 1.10, petitioner could have avoided the predicament which he now finds. The showing of record is that the delay in submission of the

---

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

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

drawings was the result of Mr. Siegel's choice to mail the papers to his employee rather than directly mailing them to the USPTO. The facts and circumstances do not constitute unavoidable delay.

As petitioner has presented no showing of unavoidable delay, the petition is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

---

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

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

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

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

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Suite 3800
Chicago, IL 60661

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OFFICE OF PETITIONS

In re Application of	:	
Schumacher et al.	:	
Application No. 09/827,633	:	DECISION GRANTING PETITION
Filed: April 6, 2001	:	
Attorney Docket No. SIE6208P002US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 4, 2004, for failure to submit timely drawings in response to the Notice Regarding Drawings mailed on August 3, 2004, which set a two (2) month non-extendable period to reply. A Notice of Abandonment was mailed on November 12, 2004. On November 24, 2004, petitioner submitted a petition under 37 CFR 1.137(a), which was dismissed by the decision of January 13, 2005.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to the Office of Patent Publications.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Chicago, Illinois 60610

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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of
Suzuki et al.
Application No. 09/827,639
Filed: April 6, 2001
Patent No. : 6,985,501
Attorney Docket No. 6983/64

: DECISION DISMISSING PTA REQUEST

This is a decision on the "REQUEST FOR RECONSIDERATION Of PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)," timely filed on March 10, 2006. Patentees request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of thirteen hundred and eight (1308) days rather that the USPTO calculation of eight hundred and ninety-three (893) days.

Patentees request for reconsideration is **DISMISSED.** The Office maintains that 893 days is the proper calculation of patent term adjustment at the time of the issuance of the patent.

Patentees assert that 893 days is inaccurate because the Office failed to provide any additional time for the provisions of 37 CFR 1.702(b). Patentees assert that the patent issued 644 days beyond the three year anniversary date. Patentees assert that only 226 days of the days overlap with the 644 days due to exceeding the three year provision. Accordingly, patentees believe that an additional 415 days (664-229=415) should be added to the 893-day determination that the Office calculated for PTA.

Patentees arguments are not persuasive. Patentees should be advised 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). Accordingly, because the amount of delay accrued exceeded the three year amount, the Office awarded no additional PTA under 37 CFR 1.702(b).

The Office acknowledges authorization to charge a fee of the $200.00 fee set forth in 37 CFR 1.18(e) to Deposit Account 23-1925 . No additional fees are required.

The application file is being forwarded to the file repository for proper maintenance of the patented file.

Telephone inquiries specific to this matter should be directed to Kery Fries at 571-272-7757.

Kery A. Fries

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

cc: PAIR calculation

PALM INTRANET

Day : Saturday
Date: 9/2/2006
Time: 12:13:03

PTA Calculations for Application: 09/827639			
Application Filing Date:	04/06/2001	PTO Delay (PTO):	896
Issue Date of Patent:	01/10/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	893
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
33.5	12/21/2005	PTA 36 MONTHS			
33	01/10/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	4		28
32	12/13/2005	EXPORT TO FINAL DATA CAPTURE			
31	12/10/2005	FINISHED INITIAL DATA CAPTURE			
30	12/12/2005	DISPATCH TO FDC			
29	11/08/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
28	09/06/2005	ISSUE FEE PAYMENT VERIFIED			
27	09/06/2005	ISSUE FEE PAYMENT RECEIVED			
26	06/22/2005	EXPORT TO INITIAL DATA CAPTURE			
25	06/17/2005	MAIL NOTICE OF ALLOWANCE	10		15
24	06/15/2005	ISSUE REVISION COMPLETED			
23	06/15/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	06/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	06/13/2005	NOTICE OF ALLOWABILITY			
20	04/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	04/06/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17	02/07/2005	NEW OR ADDITIONAL DRAWING FILED			
16	04/21/2005	DATE FORWARDED TO EXAMINER			
15	02/07/2005	RESPONSE AFTER NON-FINAL ACTION		3	12
14	05/14/2003	REFERENCE CAPTURE ON IDS			
13	02/07/2005	WORKFLOW INCOMING AMENDMENT IFW			
12	11/04/2004	MAIL NON-FINAL REJECTION	882		-1
11	11/01/2004	NON-FINAL REJECTION			

10	09/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	05/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	09/07/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	08/23/2001	APPLICATION DISPATCHED FROM OIPE			
5	05/22/2001	APPLICATION IS NOW COMPLETE			
4	05/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/21/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/06/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PATENT DOCKETING 39/361
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NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Richard E. McNutt	: DECISION ON REQUEST FOR
Patent Number	: 7648414	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/827,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1314** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Raymond E. Roberts
Intellectual Property Law Office
1901 S. Bascom Avenue, Suit 660
Campbell, CA 95008

In re Application of: Moreh, et al.	)	
Application No.: 09/827,697	)	**DECISION ON PETITION FOR**
Filed: April 07, 2001	)	**ACCELERATED EXAMINATION**
For: FEDERATED AUTHENTIFICATION SERVICE	)	**UNDER M.P.E.P. §708.02(VIII)**
	)	

This is a decision on the petition, filed June 20, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The

application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the references considered to be relevant to the subject matter of the claimed invention" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that it does not provide a detailed discussion of the references, which particularly points out how the claimed subject matter is patentable over the references as required by 37 CFR 1.111(b) and (c). Although Applicant refers to both ISR and IPER of PCT, the contents of these two documents, by themselves, do not meet the requirement of item (E), and therefore, do not relieve the Applicant from providing a detailed discussion of the references, which particularly points out how the claimed subject matter is patentable over the references.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

Raymond E. Roberts
Intellectual Property Law Office
1901 S. Bascom Avenue, Suit 660
Campbell, CA 95008

In re Application of: Moreh, et al. Application No.: 09/827,697 Filed: April 07, 2001 For: FEDERATED AUTHENTIFICATION SERVICE	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed June 20, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion **points out**, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.

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

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the references considered to be relevant to the subject matter of the claimed invention" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that it does not provide a detailed discussion of the references, which particularly points out how the claimed subject matter is patentable over the references as required by 37 CFR 1.111(b) and (c). Although Applicant refers to both ISR and IPER of PCT, the contents of these two documents, by themselves, do not meet the requirement of item (E), and therefore, do not relieve the Applicant from providing a detailed discussion of the references, which particularly points out how the claimed subject matter is patentable over the references.

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

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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Paper No. 11

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DEC 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Raymond E. Roberts
Intellectual Property Law Office
1901 S. Bascom Avenue, Suit 660
Campbell, CA 95008

In re Application of: Moreh, et al. Application No.: 09/827,697 Filed: April 07, 2001 For: FEDERATED AUTHENTIFICATION SERVICE	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition filed June 20, 2003, and supplemented by Petitioner's submission dated October 06, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Petitioner's submission dated October 06, 2003 cures the deficiencies in the original Petition noted in the decision mailed August 29, 2003. Accordingly, the Petition is **GRANTED**.

It is noted that the Examiner of Record has examined the instant application and issued a First Office Action. The application file is being forwarded to the Examiner of Record for following the special examining procedure set forth in M.P.E.P. §708.02.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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NOV 15 2002

Paper No. 5

In re Application of
Jeffrey Fischer
Application No. 09/827,698
Filed: April 6, 2001
Attorney Docket No. P00043601XX

: DECISION ON PETITION

This is a decision on the petition filed on September 30, 2002 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated September 26, 2001. No fee is required for the petition.

The petition is granted.

Petitioner alleges that a reply to the Office letter in question was in fact filed on February 25, 2002, and that the reply was timely filed by reason of a concurrently filed petition for a two month extension of time and the fee for the extension. Petitioner supports this allegation by including a copy of the reply, which is a copy of a request for filing a continued prosecution application (CPA) together with a preliminary amendment. The CPA request includes the petition for the two month extension of time. Petitioner further supports the allegation of timely filing by including a copy of a filing receipt for these items which shows that they were actually received in the Office on February 25, 2002. In addition, Office financial records show that the CPA filing fee and the extension fee were in fact received in the Office.

It is clear that in light of the above showing, this application was not in fact abandoned. However, petitioner is advised that 37 CFR 1.53(d) provides, in pertinent part, that, a request for filing a CPA of a prior nonprovisional utility patent application is proper only in the event that the prior nonprovisional utility patent application was filed under 35 USC § 111(a) **before** May 29, 2000. See 37 CFR 1.53(d)(1)(i)(A). Therefore, the CPA request in this application was not a proper reply to the Office letter in question because the CPA request was improper. However, Office practice is to treat an improper CPA request as the filing of a request for continued examination (RCE) under 37 CFR 1.114. See MPEP § 706.07(h), subsection IV. "Improper CPA Treated as RCE".

Consideration of the reply filed on February 25, 2002 as a RCE under 37 CFR 1.114 shows that the RCE is also improper, because the prosecution in the application was not closed on February 25, 2002. See 37 CFR 1.114(a), which reads in pertinent part, "If prosecution in an application is closed ..." and 37 CFR 1.114(b) which defines the meaning of the phrase "prosecution in an application is closed". See also MPEP § 706.07(h), subsection I. "Conditions for Filing an RCE". However, pursuant to MPEP § 706.07(h), subsection III(A)(1), "Initial Processing - Treatment of Improper RCE - Prosecution Not Closed", applicant will be notified of the improper RCE, any amendment submitted with the improper RCE will be entered, and the application will be forwarded to the examiner for consideration of the amendment under 37 CFR 1.111.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the papers filed on February 25, 2002, including the mailing of a formal notice of the filing of an improper RCE.

Thereafter, the Head Supervisory Applications Examiner will enter the "preliminary" amendment filed on February 25, 2002 and forward the application to the examiner *via* the Supervisory Patent Examiner, for consideration pursuant to 37 CFR 1.111. If the amendment is considered to be responsive to the outstanding Office action within the meaning of 37 CFR 1.111, prosecution of the application will resume as though petitioner had simply filed an amendment in response to the outstanding action. If the examiner determines that the amendment is informal/nonresponsive to the outstanding Office action, then the examiner will treat the amendment in accordance with 37 CFR 1.135(c) as discussed in MPEP § 710.01.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

JOHN C. SMITH, ESQ.
4800 NORTH FEDERAL HIGHWAY
SUITE A-207
BOCA RATON, FL 33431

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Paper No. 5

ZARLEY MCKEE THOMTE VOORHEES & SEASE
SUITE 3200
801 GRAND AVENUE
DES MOINES, IA 50309-2721

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SEP 1 4 2001

OFFICE OF PETITIONS

In re Application of :
Martin High et al :
Application No. 09/827,833 :
Filed: April 6, 2001 :
Attorney Docket No. P05127US0 :

NOTICE

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

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

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

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

This file is being forwarded to Initial Patent Examination Division.

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

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

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OFFICE OF PETITIONS
A/C PATENTS
ON PETITION

Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of
Khandros et al.
Application No. 09/827,840
Filed: April 6, 2001
Attorney Docket No. TESSERA 3.3-018CCIIDCCII

This is a decision on the petition filed April 9, 2001, to accord the above-identified application a filing date of April 6, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

It should be noted that petitioner has not established that the express label "date-in" differs from April 6, 2001, in so far as a copy of the label has not been provided. Petitioner states that a copy of a computer report from the U.S.P.S. is enclosed but a review of the petition fails to disclose a copy of the computer report. However, petitioner has proven by submitting evidence that came into being within one business day of the deposit of the application that, if the date-in of the label differs from April 6, 2001, then the date-in is incorrect. The application will be accorded a filing date of April 6, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of April 6, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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Paper No. 7

LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Sumihiro Okawa et al	:	DECISION GRANTING
Application No. 09/827,841	:	PETITION
Filed: April 6, 2001	:	
Attorney Docket No. SONY JP 3.0-152	:	

This is a decision on the petition under 37 CFR 1.10(d) filed April 12, 2001, requesting that the above-identified application be accorded a filing date of April 6, 2001, rather than the presently accorded filing date of April 5, 2001.

Petitioners request the later filing date on the basis that the application was purportedly deposited in Express Mail service on April 6, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, inter alia, the firm's Express Mail Log and an affidavit from Megan Doktor, indicating that she is the clerk who personally delivered the package in question to the US Postal Service (USPS) in Westfield, NJ prior to the close of business on April 6, 2001. Also included is an USPS sales receipt showing that a package bearing Express Mail label No. EL756209292US was accepted on April 6, 2001. The same Express Mail label number appears on the original transmittal letter in the file.

A search of the USPS's Track/Confirm system information confirms that a package bearing Express Mail label No. EL756209292US was accepted at 4:45 pm on April 6, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 6, 2001.

The petition is granted. A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2181 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley

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

Enclosure: Express Mail Track/Confirm Sheet
Corrected Filing Receipt

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ALEXANDRIA, VA 22313-1450
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Paper No. 14

MARGER JOHNSON & McCOLLOM P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

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OFFICE OF PETITIONS

In re Application of :
John F. Acres et al :
Application No. 09/827,870 : NOTICE
Filed: April 6, 2001 :
Attorney Docket No. 4164-168 :

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 3714.

Wan Laymon
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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Weaver Austin Villeneuve &
Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland CA 94612-0250

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OFFICE OF PETITIONS

In re Application of :
Acres, et al. :
Application No. 09/827,870 : ON APPLICATION FOR
Filed: April 6, 2001 : PATENT TERM ADJUSTMENT
Docket No. IGT1P289D1C1C1/ :
AC00001032 :

This is in response to the COMMUNICATION RE PATENT TERM ADJUSTMENT," filed January 21, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is not three thousand one hundred thirty-four (3134) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

Applicants do not specify an alternate calculation of the patent term adjustment. However, applicants request a correction on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants disclose that the application is subject to two terminal disclaimers over four different patents and that the patent term adjustment seems to have erroneously double-counted 1503 days of Office delay ending in the Notice of Allowance mailed on July 11, 2008. The instant communication will be treated as a petition under 37 CFR §1.705(b).

The request for reconsideration of patent term adjustment is **DISMISSED** because the petition was not accompanied by the $200.00 fee set forth in 37 CFR 1.18(e). A review of the application file reveals that the Director of the USPTO has not been authorized to charge any additional fees required under 37 CFR 1.18. When the instant petition was filed, the Director of the USPTO was authorized to charge any additional fees required under 37 CFR 1.21. The merits of the petition will not be addressed until the $200.00 fee set forth in 37 CFR 1.18(e) is submitted.

Applicants are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

Cummings & Lockwood
Four Stamford Plaza
PO Box 120.
Stamford, CT 06904-0120

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APR 2 9 2003

OFFICE OF PETITIONS

In re Application of
Claude Q. C. Hayes
Application No. 09/827,889
Filed: April 6, 2001
Attorney Docket No. 432580.0011

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts Notice mailed June 8, 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 August 9, 2001.

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

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

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Paper No. 8

Arnold M. deGuzman
deGuzman, Okamoto & Benedict, LLP
P.O. Box 51900
Palo Alto, California 94303

MAIL

MAR 0 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Robert F. Terry	)	
Application No. 09/827,891	)	
Filed: April 6, 2001	)	
For: SYSTEM AND METHOD FOR REAL TIME MONITORING AND CONTROL OF NETWORKED COMPUTERS	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed September 27, 2001.

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

The request is deficient in the following aspects: (1) the United States Patent and Trademark Office (Office) does not recognize firms - each attorney for whom withdrawal is requested must be individually listed; (2) there is no statement that Mr. Durdik is ***authorized*** to sign on behalf of the other attorneys and is signing on their behalf. Therefore, the request is **DENIED**.

A change of correspondence address filed on October 29, 2001 established Arnold M. deGuzman as the addressee of record. A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

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

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

cc: Paul Durdik, Esq.
Squire, Sanders & Dempsey L.L.P.
600 Hansen Way
Palo Alto, California 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

CIENA CORPORATION
LEGAL DEPARTMENT
1201 WINTERSON ROAD
LINTHICUM, MD 21090

COPY MAILED

AUG 30 2001

OFFICE OF PETITIONS

In re Application of	:	
Niakam Kazemi	:	DECISION GRANTING
Application No. 09/827,979	:	PETITION
Filed: April 6, 2001	:	
Attorney Docket No. 362	:	

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed August 6, 2001, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of April 6, 2001, rather than the presently accorded filing date of April 9, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 6, 2001, pursuant to the requirements of 37 CFR 1.10. While the copy of the Express Mail label receipt no. EL716682473US bears a handwritten "date-in" of 1848, it also includes a USPS date stamp receipt of April 6, 2001. Applicants are alleging that the date of mailing shown in the "date-in" is a U.S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is April 6, 2001.

The Office considers that date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPTO's USPS Express Mail Information Database was made and confirms that the package bearing Express Mail label No. EL716682473US was accepted at 6:46 pm on April 6, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 6, 2001.

The petition is granted.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed June 4, 2001, and for correction of the filing date to April 6, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

Enclosure: USPTO'S USPS Express Mail Information

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

WILSON & HAM
PMB: 348 2530 BERRYESSA ROAD
SAN JOSE, CA 95132

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MAY 19 2004

OFFICE OF PETITIONS

In re Application of
In-Kwon Jeong
Application No. 09/828,029
Filed: April 6, 2001
Attorney Docket No. ORL-004

ON PETITION

This is a decision on the petition, filed May 5, 2004, 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 non-final Office action mailed July 31, 2002, which set a shortened statutory period for reply of three (3) months. A Notice of abandonment was mailed February 13, 2003. In response, an amendment and the present petition were filed.

The Revocation and Power of Attorney filed April 30, 2004, has not been accepted since it is filed on behalf of the assignee but does not comply with the requirements of 37 CFR 3.73(b).
However, in accordance with 37 CFR 1.34(a), the signature of Song K. Jung appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Jung desires to receive future correspondence regarding this application, an acceptable power of attorney or authorization of agent must be submitted. For petitioner's convenience, a Statement Under 37 CFR 3.73(b) is attached. While a courtesy copy of this decision is being mailed to petitioner, all future correspondence regarding this application file will be directed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9282. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3743 for consideration of the amendment filed May 6, 2004.

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

Attachment: Statement Under 37 CFR 3.73(b)

cc: Song K. Jung
McKenna Long & Aldridge, LLP
1900 K Street, N.W.
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCKENNA LONG & ALDRIDGE
1900 K ST NW
WASHINGTON DC 20006

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of Boris Atlas Application No. 09/828,029 Filed: April 6, 2001 Attorney Docket No. 9323.055.00-US	DECISION GRANTING PETITIONS UNDER § 1.48(e) and § 1.183

This is a combined decision on the "PETITION TO SUSPEND THE RULES UNDER 37 C.F.R 1.183", filed September 20, 2005, to waive the requirement under § 1.48(a)(2) for execution of the required statement by the inventor being deleted from the application.

The above-identified application was filed on April 6, 2001. On January 4, 2005, applicant filed a request for correction of inventorship under 37 CFR 1.48(a). However, in an Office action mailed May 20, 2005, the Examiner dismissed the request. The request under 37 CFR 1.48(a) lacked a statement from the inventor being deleted (In-Kwon Jeong) that such error in inventorship occurred without deceptive intent. On September 20, 2005, applicant filed the instant petition.

37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement by the person or persons whose names are being deleted that the inventorship error occurred without deceptive intention on the part of such person or persons;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (3), (4) and (5) above. The petition sets forth the desired inventorship change. Petitioner has paid the processing fee. Petitioner previously filed a declaration on January 4, 2005. In addition, on January 4, 2005, petitioner included written consent from Carol W. Wu, Chapter 7 Trustee for assignee Oriol, Inc.

Petitioner requests waiver of the requirement that In-Kwon Jeong sign the statement that the inventorship error occurred without deceptive intent. In support thereof, petitioner has provided a statement of facts by Anthony Johnson, stating: (1) during a phone conversation with Jeong on March 18, 2005, Johnson explained that Jeong was not an inventor; (2) Jeong stated that he did not want to sign anything without speaking to his attorney; and (3) that Johnson mailed letters to Jeong on March 18, 2005 and April 22, 2005, requesting that Jeong sign the required statement under 37 CFR 1.48(a)(2).

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. Petitioner has shown that Jeong has been given the opportunity to sign the statement under 37 CFR 1.48(e)(2), but refuses to do so.

Accordingly, the petition under § 1.183 is **GRANTED**.

In view thereof, the petition under § 1.48(e) is **GRANTED.**

Receipt of the $400 petition fee is acknowledged. The $130 processing fee required by 1.48(a)(4) was previously filed on January 4, 2005.

Accordingly, the declaration filed on January 4, 2005 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(2) that the person being deleted sign a statement that the inventorship error occurred without deceptive intent has not been satisfied.

The matter is being forwarded to Group Art Unit 3753 for consideration of the amendment filed September 20, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/828,029	04/06/2001	3753	561	ORL-004	6	34	5

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

CONFIRMATION NO. 6430
CORRECTED FILING RECEIPT
OC000000018463962
OC000000018463962

Date Mailed: 04/05/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

BORIS ATLAS, SAN JOSE, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/780,713 02/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/828,029

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-CHANNEL TEMPERATURE CONTROL SYSTEM FOR SEMICONDUCTOR PROCESSING FACILITIES

Preliminary Class

165

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE

GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

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OCT 0 3 2005
OFFICE OF PETITIONS

In re Application of	:	
Zhong, et al.	:	DECISION ON APPLICATION
Application No. 09/828,034	:	FOR PATENT TERM
Filed: April 6, 2001	:	ADJUSTMENT
Atty. Dkt. No.: IN01165	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed June 28, 2004.

Applicants herein request that the Determination of Patent Term Adjustment be corrected from 504 days, as indicated on the Determination of Patent Term Adjustment mailed March 23, 2004, to an adjustment of 679 days.

An adjustment of 484 days can be attributed to the Office in accordance with 37 C.F.R. § 1.702(a)(1). A further adjustment of 20 days can be attributed to the Office in accordance with 37 C.F.R. § 1.702(a)(2).

Applicants argue that the application is entitled to an additional adjustment of 175 in accordance with 37 C.F.R. § 1.702(b) as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision as to the period of adjustment under 37 C.F.R. § 1.704(b) 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 3 years. *See*, 37 C.F.R. § 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 before the Office (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 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 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).

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 504 days.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Kery Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Townsend and Townsend and Crew
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Yong-Hwan Moon, et al. :
Application No. 09/828,068 : ON PETITION
Filed: April 6, 2001 :
Attorney Docket No. 18941001400 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed July 31, 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 October 1, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $980.00 extension of time submitted with the petition onApril 11, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to 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

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

Sherry Brinkley

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

Paper No. 5

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JUL 0 5 2002

OFFICE OF PETITIONS

In re Application of
Melissa E. Scott, Haim Kedar, Andrew J. Kelly, David E. Huber, and Richard B. Mortensen
Application No. 09/828,072
Filed: April 6, 2001
Attorney Docket No. 16528A039800
Title: HIGH-THROUGHPUT SCREENING ASSAYS BY ENCAPSULATION

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

This is a decision on the petition filed on June 4, 2002, pursuant to 37 C.F.R. §1.137(b)[1], 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 above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 4, 2001, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 5, 2001.

With the instant application, petitioner has filed the petition, fee, made the correct statement required by 37 C.F.R. §1.137(b)(3), filed a Request for Continued Examination (RCE), and filed the fee associated with the filing of an RCE.

37 C.F.R. §1.114(a) clearly states that a request for continued examination may be made only if prosecution in an application is closed. As prosecution is still open, the filing of an RCE is improper. The fee associated with this filing has not been charged to applicant's deposit account.

---

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.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

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.

Furthermore, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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 should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

cc: Frank P. Grassler
GlaxoSmith Kline
Five Moore Drive
RTP, NC 27709

2 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

David J. Levy, Corporate Intellectual Property
GlaxoSmithKline
Corporate Intellectual Property
5 Moore Drive, P.O. Box 13398
Research Triangle Park, NC 27709-3398

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SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of:
Scott, *et al.*
Application No. 09/828,072
Filed: April 6, 2001

ON PETITION

This is a decision on the August 26, 2002 petition under 37 C.F.R. §1.137(b) to revive the above-identified application.

This application became abandoned due to applicant's failure to timely file a proper reply to the notice to file missing parts, mailed on June 4, 2001. A shortened statutory period of two (2) months was set for replying. However, that time period lapsed without reply. Consequently, the application became abandoned on August 5, 2001.[1]

Applicants originally filed the petition on June 4, 2002. However, the office dismissed that petition in a decision mailed on July 5, 2002 for lack of a proper reply. The decision set a two month period for replying.

All requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) to revive an unintentionally abandoned application have been met. Therefore, this petition is **GRANTED**.

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

The power of attorney has been entered into the record. Additionally, as per Petitioner's authorization, the $130.00 late filing surcharge has been charged to deposit account no. 07-1392.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See 35 U.S.C. §133, 37 C.F.R. §1.134-136.

10/24/2002 SDIRETA1 00000008 071392 09828072

01 FC:1051 130.00 CH

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

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of	:	
JIANG, et al.	:	
Application No. 09/828,116	:	DECISION ON PETITION
Filed: April 6, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **TI-32309**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before June 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 1, 2006. Accordingly, the date of abandonment of this application is June 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500, which has been charged to deposit account no. 20-0668 as authorized; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

MRD 8/23/07

Electronic Acknowledgement Receipt

EFS ID:	2118142
Application Number:	09828116
International Application Number:	
Confirmation Number:	6799
Title of Invention:	EFFICIENT DIGITAL AUDIO AUTOMATIC GAIN CONTROL
First Named Inventor/Applicant Name:	Zhongnong Jiang
Customer Number:	23494
Filer:	Wade J. Brady III/Marilyn Blake
Filer Authorized By:	Wade J. Brady III
Attorney Docket Number:	TI-32309
Receipt Date:	23-AUG-2007
Filing Date:	06-APR-2001
Time Stamp:	16:56:43
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes 06/26/2008 CKHLOK 00000004 200668 09828116
Payment was successfully received in RAM	$1700 01 FC:1453 1500.00 DA
RAM confirmation Number	1664
Deposit Account	200668
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17	

File Listing:

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.
09/828,122	04/09/2001	Gary M. Katz	PIP-69B-KATZ	5972

31518 7590 10/21/2008
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

EXAMINER
RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
10/21/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

general@neifeld.com
rneifeld@neifeld.com
rhahl@neifeld.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 2 0 2006

Richard A. Neifeld
NEIFELD IP LAW, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of	:	
Gary M. Katz	:	DECISION ON PETITION
Application No. 09/828,122	:	TO WITHDRAW THE
Filed: April 9, 2001	:	RESTRICTION
For: PAIRED PROMOTION ARCHITECTURE	:	REQUIREMENT

Applicants' petition filed on July 8, 2006 requests reinstatement of withdrawn claims 59-64 under an election by original presentation restriction as set forth in the Office action mailed March 27, 2006. Applicants further request an examination on the merits of all pending claims.

The petition is **GRANTED**.

A review of the record reveals that the Office action mailed March 27, 2006 set forth an election by original presentation requirement which resulted in the withdrawal of newly added Claims 59-64 that specified "determining a promotion for a product which has never been purchased and pairing it with a promotion for a product that has been purchased before, by the same consumer." This petition was then timely filed.

Applicants' petition alleges that the "restriction requirement is improper because the examiner has shown no basis for insisting upon restriction, for holding that the groups are independent or distinct." After reviewing the original claims and the newly added group of Claims 59-64, it has been found that both groups pair promotions from a low relevance category (or one not purchased) and a high relevance category (or one frequently purchased) for a consumer based on past purchase history. The only difference between the two groups is the recitation of the frequency (not purchased, purchased) that the newly added Claims 59-64 specifically identify. However, since there could not be more low relevance than not purchasing a product, it is not deemed to be a significant burden on the examiner to examine the newly added Claims 59-64.

For the foregoing reasons, the examiner's election requirement is improper.

The application is being forwarded to the examiner for consideration of all of the claims, including previously withdrawn Claims 59-64. An appropriate Office response will follow in due course.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS: 10/6/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
FROM DIRECTOR'S OFFICE
MAR 0 6 2009
TECHNOLOGY CENTER 3600

Richard Neifeld
Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of	:	
Gary M. Katz	:	DECISION ON PETITION UNDER
Application No. 09/828,122	:	37 C.F.R. 1.181 TO
Filed: April 9, 2001	:	WITHDRAW FINALITY
For: PAIRED PROMOTION ARCHITECTURE	:	

This is in response to applicant's Petition filed on December 20, 2008, requesting withdrawal of the finality of the Office action mailed December 5, 2008 as being premature.

The petition is **GRANTED to the extent indicated below.**

Petitioner alleges that the final rejection dated December 5, 2008 was premature since this Office action contained a new grounds of rejection not necessitated by applicant's amendment or by new information submitted in an information disclosure statement.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that in the final rejection dated December 5, 2008, claims 1-19, 24 and 26-28 were for the first time rejected under 35 USC 101 as being directed to non-statutory subject matter based on an In re Bilski analysis, which rejection was not in response to an amendment or new prior art submitted by applicant, but instead a policy change by the Office.

Accordingly, the finality of the December 5, 2008 Office action, but not the action itself, is hereby vacated. The Office action dated December 5, 2008 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

Note, the rejection of newly introduced claims 59-64 under 35 USC 112, first paragraph, as failing to comply with the written description requirement, under 35 USC 112, second paragraph, as being indefinite, and under 35 USC 102(b) as anticipated by Deaton et al., is not considered premature. These claims were first introduced in the amendment filed December 27, 2005. The

Examiner proceeded to issue the election by restriction (election by original presentation) requirement (on March 27, 2006) which was the subject of the Petition decision issued October 20, 2008. This decision caused the Examiner to step back in time to the December 27, 2005 amendment where these claims were first introduced. Thus, the rejections of claims 59-64 was "as necessitated by amendment".

Summary: ***Petition Granted***

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS: 3/4/09
R

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6786994	2004-09-07	09828134	2001-04-09	181.001

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mitchell A. Smolow/	Date (YYYY-MM-DD)	2009-10-19
Name	Mitchell A. Smolow	Registration Number	43140

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. 6786994
Issue Date: September 7,2004
Application No. 09828134
Filed: April 9,2001
Attorney Docket No. 0175-0294P

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

This is a decision on the electronic petition, filed October 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 19,2009 .
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.

RECEIVED
CENTRAL FAX CENTER
SEP 0 9 2005

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PAUL J. SKWIERAWSKI*
ALFRED A. STADNICKI*

*ADMITTED OTHER THAN VA

OF COUNSEL
DAVID T. TERRY
HAROLD A. WILLIAMSON*
JESSICA H. SUI*
STERLING W. CHANDLER*

PATENT AGENT
LARRY N. ANAGNOS

APPROVED
12/9/05

September 9, 2005

VIA FACSIMILE - 4 PAGES (Including This Cover)

Commissioner for Patents
POB 1450, Alexandria, VA 22313-1450
Transmitted to USPTO Central Fax No. 571-273-8300

Re: Pugliese III et al, Serial No. 09/828,191
Att'y Docket 954.35718VX3
Examiner S. Saliard/AU 3629/ Conf. No. 1029

SUBMISSION

Sir:

Applicant hereby transmits the attached "Request for Withdrawal As Attorney Or Agent" (3 pages) regarding the above-identified application.

CERTIFICATE OF TRANSMISSION:

I hereby certify that the attached **"Request for Withdrawal As Attorney Or Agent" (3 pages)** is being **FORMALLY TRANSMITTED** *via* the USPTO Central Fax No. 571-273-8300 on **9 September 2005**.

Joy Aiken

CONFIDENTIALITY NOTICE: The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. This information is intended only for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for return of the original document to us.

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954.35718VX3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: PUGLIESE III

Serial No.: 09/828,191

Filed: April 9, 2001

For: Electronic Ticketing And Reservation System And Method

Art Unit: 3639

Examiner: S. Saliard

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Mail Stop:
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 9, 2005

Sir:

I hereby sign on behalf of and apply to withdraw, all of the following persons and/or law firm as attorneys or agents for the above-identified application:

Donald R. Antonelli, Reg. No. 20,296; David T. Terry, Reg. No. 20,178; William I. Solomon, Reg. No. 28,565; Gregory E. Montone, Reg. No. 28,141; Ronald J. Shore, Reg. No. 28,577; Donald E. Stout, Reg. No. 26,422; Alan E. Schiavelli, Reg. No. 32,087; James N. Dresser, Reg. No. 22,973; Carl I. Brundidge; Reg. No. 29,621; and any and all other attorneys of Customer No. 020457, ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 North Seventeenth Street, Suite 1800, Arlington, Virginia 22209, telephone 703-312-6600, fax 703-312-6666.

The reason(s) for this request:

An office action dated July 29, 2005 is outstanding in this application with the shortened statutory period for response now expiring October 29, 2005.

PAGE 2/4 * RCVD AT 9/9/2005 4:09:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:703 312 6666 * DURATION (mm-ss):00-58

Prior to receipt of the office action dated July 29, 2005, the undersigned attorney has attempted to contact one of the applicants and the client Anthony V. Pugliese III with regard to matters on behalf of the client, by both letter and voice mail messages and with no response being received to such communications. The office action of July 29, 2003, was forwarded by Federal Express on August 11, 2005 to his last known address:

Anthony Pugliese III
The Pugliese Company
Pineapple Groove Corporate Center
101 Peneapple Groove Way (NE 2 Ave)
Delray Beach, FL 33111-3703

and was delivered on August 15, 2005 and signed for by "L. Pugliese". The letter forwarding the office action requested a response within ten days of receipt of the letter and noting our intent to request withdrawal of our office from any of the client's cases pending before the US Patent and Trademark Office in the absence of a response. As of this date, no response has been received, and it is apparent that the client will not communicate with our office.

Accordingly, as I am signing on behalf of our law firm and all law firm personnel listed above, it is respectfully requested: that approval of the withdrawal be granted; that written notification of the approval be forwarded to the undersigned; and, that future correspondence (other than the approval communication) be mailed to applicant at the above-indicated address.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

PAGE 3/4 * RCVD AT 9/9/2005 4:09:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:703 312 6666 * DURATION (mm-ss):00-58

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 954.35718VX3), and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

Melvin Kraus
Registration No. 22,466

MK/jla
(703) 312-6600

PAGE 4/4 * RCVD AT 9/9/2005 4:09:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:703 312 6666 * DURATION (mm-ss):00-58

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February ~~10~~ 16, 2006

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6,947,784/Appl.09/828,268

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:

DANIEL ROBINSON
PRIMARY EXAMINER

Robin Evans
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

Martha Ann Finnegan, Esq.
CABOT CORPORATION
Billerica Technical Center
157 Concord Road
Billerica, MA 01821-7001

COPY MAILED

SEP 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Thielen, et al.	: DECISION ON APPLICATION FOR
Application No. 09/828,275	: PATENT TERM ADJUSTMENT
Filed: April 6, 2001	:
Atty. Dkt. No.: 01030	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" under 37 CFR 1.705(b) filed March 23, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment ("PTA") determination at the time of mailing of the Notice of Allowance reflects an adjustment of 160 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from the 130 day determination indicated on the Determination of Patent Term Adjustment mailed December 24, 2003 to an adjustment of 160 days.

Review of the application history reveals that in accordance with 37 CFR 1.702(a)(1), an adjustment of 279 days can be attributed to the Office relative to the mailing of the non-final Office action on March 12, 2003. There were no further Office delays at the time of mailing of the Notice of Allowance within the meaning of 37 CFR 1.702.

Further review of the application history reveals that the adjustment of 279 days for Office delays is reduced a total of 119 days for failure to engage in reasonable efforts to conclude prosecution of the application within the meaning of 37 CFR 1.704. A reduction of 27 days is due relative to the response submitted October 2, 2001. The reduction began September 6,

2001, the day that is three months after the mailing date of the Notice to File Missing Parts of Nonprovisional Application, and ended October 2, 2001, the date the response was filed. A reduction of 92 days is due relative to the response submitted September 12, 2003. The delay began June 13, 2003, the date that is three months after the date the non-final Office action was mailed, and ended September 12, 2003, the date the response was filed.

Accordingly, the adjustment of 279 days is reduced 119 days resulting in a PTA of 160 days as of the mailing date of the Notice of Allowance.

The original oath reflects that Luke Kilyk was an attorney empowered to act on this application. However, the address listed in the application for patent term adjustment is different from the address in the original oath. A courtesy copy of this decision will be mailed to L. Kilyk. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. The file does not reflect a change of correspondence being filed in this application.

The required $200.00 applicant fee has been charged to deposit account No. 03-0060 as authorized in the instant petition.

The application file is being forwarded to the Publications Division for timely issuance of a patent.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

Enclosure: Copy of Adjustment PAIR Calculation

CC: LUKE A. KILYK
KILYK & BOWERSOX, PLLC
53 A EAST LEE STREET
WARRENTON, VA 20186

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BEVER HOFFMAN & HARMS LLP
TRI-VALLEY OFFICE
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

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APR 27 2006

OFFICE OF PETITIONS

In re Application of
NOBAKHT, Lida *et al*
Application No.: 09/828,294
Filing Date: October 05, 2004
Docket No.: 134923CNT2
For: SMART CARD FOR ACCESSING A TARGET INTERNET SITE

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on January 03, 2006. The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to a Final Office Action mailed April 05, 2005. The Office Action set a three (3) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). However, in no event may a reply be timely filed after six (6) months from the mail date.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted a response to the Office Action (in this case, the filing of a RCE), paid the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to Art Unit 2157 for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY,LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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NOV 09 2004

OFFICE OF PETITIONS

In re Application of	:
Paul J. Comay et al	: DECISION ON PETITION
Application No. 09/828,296	: UNDER 37 CFR 1.78(a)(3) AND
Filed: April 6, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5772.02	:

This is a decision on the petition filed July 19, 2004, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(I). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(I) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

The instant petition does not comply with item (3).

The amendment submitted with the instant petition on July 19, 2004, states that the instant application claims priority to Provisional Application No. 60/028,556, filed October 15, 1996. However, this is improper since the instant application was filed on April 6, 2001, which is well over twelve(12) months from the filing of provisional Application No. 60,028,556, filed October 16, 1996. Additionally, it is unclear whether petitioner intends to further claim benefit to provisional Application Nos. 60/215,499 and 60/195,686, since the provisional applications were not included in the amendment filed with the instant petition.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment along with a renewed petition under 37 CFR 1.78(a)(6), to clarify the above matters is required.

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

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

By hand: Customer Window located at:

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Paul J. Comay et al :
Application No. 09/828,296 :
Filed: April 6, 2001 :
Attorney Docket No. 5772.2 :

ON PETITION

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 23, 2004, and supplemented on December 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed with the instant petition.

The petitions are **GRANTED.**

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on September 14, 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]

As to the benefit claim under 37 CFR 1.78(a)(6):

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

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

(1) the surcharge set forth in 37 CFR 1.17(t);
(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS 37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(I). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on April 6, 2001. Intermediate Application No. 08/950,377 was filed within twelve months of provisional Application No. 60/028,556, which was filed on October 15, 1996, for which priority is claimed. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed application is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 1723 for processing of the request for continued examination under 37 CFR 1.114, and for processing and 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-filed provisional application.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Penrose Lucas Albright
Mason, Mason & Albright
2306 South Eads Street
P.O. Box 2246
Arlington, VA 22202

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of:
KAREL VAN DEN BERG
Application No.: 09/828,358
Filed: April 9, 2001
Atty's Docket No.: 8553/213

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed December 01, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed March 04, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on June 04, 2004.

On December 01, 2005, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue fee and publication fee, as well as, the submission of formal drawings. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES 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 LLP-EU
c/o IP Docketing Department
2941 Fairview Park Drive
Suite 200
Falls Church, VA 22042

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OFFICE OF PETITIONS

In re Patent No. 7,100,534	:	NOTICE
Issue Date: September 5, 2006	:	
Application No. 09/828,358	:	
Filed: April 9, 2001	:	
Attorney Docket No. 8553/213	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 12, 2008. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-06

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS 6TH AVENUE
NEW YORK NY 10036-2714

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DEC 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 09/828,381	:	DECISION ON PETITION
Filed: 04/05/2001	:	
Atty. Docket No. 9824-062-228	:	

This is a decision on the petition styled under 37 CFR 1.137(a) which is treated as a petition to withdraw the holding of abandonment, filed on 29 August, 2006.

The petition is **GRANTED**.

On 23 January, 2006, the Office mailed a non-final Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 24 April, 2006. Notice of Abandonment was mailed on 11 August, 2006.

Petitioners aver that the practitioner of record at the time the Office action was mailed did not receive the non-final Office action. Specifically, petitioners assert that the Office action was returned to the USPTO as undeliverable.

A review of the record indicates that the USPTO mailed the non-final Office action to the then-correct correspondence address; however, it was inexplicably returned to the USPTO on 2 February, 2006. For this reason, the practitioner did not receive the non-final Office action of 23 January, 2006.

The showing of record is that the Office action was never received because it was returned as undeliverable to the USPTO. As such, there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition fee will be refunded to petitioners.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

As petitioners have filed a reply to the non-final Office action mailed on 23 January, 2006, with the present petition, the non-final Office action will not be remailed. Rather, the response filed with the petition will be accepted as timely filed.

The application file is being referred to Technology Center Art Unit 2126 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

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NOV 03 2004

OFFICE OF PETITIONS

In re Application of
Patullo et al.
Application No. 09/828,437
Filed: April 6, 2001
Attorney Docket No. 330501.00002

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 8, 2004, 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 April 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 February 10, 2005 accompanies this decision on petition. The Notice was directed to the previous

Address of Record since the Power of Attorney submitted with the instant petition was inadvertently processed afterwards. The Address of Record has since been updated in the USPTO system.

This application is being referred to Technology Center AU 3629 to await a reply to the outstanding non-final Office action mailed July 16, 2004. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning 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

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

December 6, 2006

Patent No. : 6,630,192 B2
Ser. No. : 09/828448
Inventor(s) : Sundram, et al.
Issued : October 7, 2003
Title : **INCREASING THE HDL LEVEL AND THE HDL/LDL RATIO IN HUMAN SERUM BY BALANCING SATURATED AND POLYUNSATURATED DIETARY FATTY ACIDS**
Docket No. : 050811-0103

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Comparison of the patent in item 73 Assignee, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

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

OIPE IAP79
APR 2 3 2007
PATENT & TRADEMARK OFFICE

09/828448 cfc. ?

Atty. Dkt. No. 050811-0103 EME

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kalyana Sundram, et al.
Control No	:	90/007,444
Filed	:	March 3, 2005
Patent Under Reexamination	:	6,630,192 B2
Issued	:	October 7, 2003
Title	:	Increasing the HDL Level and the HDL/LDL Ratio in Human Serum by Balancing Saturated and Polyunsaturated Dietary Fatty Acids
Examiner	:	Evelyn Huang
Art Unit	:	3991

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on the date below.

Rachel Caputo
(Printed Name)

Rachel Caputo
(Signature)

April 20, 2007
(Date of Deposit)

REQUEST FOR CERTIFICATE OF CORRECTION FOR PTO MISTAKE PURSUANT TO 37 C.F.R. § 1.322(a)

Certificate
APR 2 6 2007
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed, in duplicate, is a Certificate of Correction, Form PTO-1050, for the Reexamination Certificate 6,630,192 C1. Patentee submits that the Reexamination Certificate issued on September 19, 2006, incorrectly lists the assignee as the Union Bank of California. The correct assignee is Brandeis University, Waltham, Mass. (US), as shown on the face U.S. Patent No. 6,630,192 B2, issued on October 7, 2003. Therefore, the following correction to Reexamination Certificate 6,630,192 C1 is respectfully requested:

DLMR_289999.1

ON THE COVER

Assignee information should read as follows:

(73) Assignee: Brandeis University, Waltham, Mass. (US)

Although Applicant believes that no fee is required for this Request, the Commissioner is hereby authorized to charge any additional fees which may be required for this Request to Deposit Account No. 50-0872.

Respectfully submitted,

Date: April 19, 2007

By _____

Richard Warburg
Attorney for Patent Owner
Registration No. 32,327

FOLEY & LARDNER LLP
Customer Number 30542
Telephone: 858-847-6767
Facsimile: 858-792-6772

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

EX PARTE REEXAMINATION CERTIFICATE NO.:	6,630,192 C1
REEXAMINATION NO.:	90/007,444
PATENT ISSUED:	October 7, 2003
INVENTOR(S):	Kalyana SUNDRAM, Daniel PERLMAN, and Kenneth C. HAYES

It is certified that an error appears or errors appear on the above-identified Ex Parte Reexamination Certificate is hereby corrected as shown below:

On the Cover:
Assignee information should read as follows:

(73) Assignee: BRANDEIS UNIVERSITY,
Waltham, Mass (US)

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

Foley & Lardner LLP
11250 El Camino Real, Suite 200
San Diego, CA 92130

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

EX PARTE REEXAMINATION CERTIFICATE NO.:	6,630,192 C1
REEXAMINATION NO.:	90/007,444
PATENT ISSUED:	October 7, 2003
INVENTOR(S):	Kalyana SUNDRAM, Daniel PERLMAN, and Kenneth C. HAYES

It is certified that an error appears or errors appear on the above-identified Ex Parte Reexamination Certificate is hereby corrected as shown below:

On the Cover:
Assignee information should read as follows:

(73) Assignee: BRANDEIS UNIVERSITY,
Waltham, Mass (US)

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

Foley & Lardner LLP
11250 El Camino Real, Suite 200
San Diego, CA 92130

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,450	04/06/2001	Lida Nobakht	CTV-001-1P	6904

22888 7590 07/14/2005

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

EXAMINER
LIM, KRISNA

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 07/14/2005

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

In re Application of NOBAKHT ET AL.	:	
Appl. No.: 09/828,450	:	**WITHDRAWAL FROM ISSUE**
Filed: April 06, 2001	:	*37 CFR 1.313*
For: CHANNEL-BASED INTERNET NETWORK FOR A SATELLITE SYSTEMS	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Peter Wong
Director
Patent Examining Technology Center 2100

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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TRI-VALLEY OFFICE
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LIVERMORE, CA 94550

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OFFICE OF PETITIONS

In re Application of Nobakht et al. :
Application No. 09/828,450 :
Filing Date: April 6, 2001 :
Attorney Docket No. CTV-001-1P :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 12, 2004, 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 on February 13, 2005. A Notice of Abandonment was mailed on October 7, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2153 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
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HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,204,840 :
Issue Date: May 17, 2007 :
Application No. 09/828,451 : ON PETITION
Filed: April 6, 2001 :
Attorney Docket No. 5074I-000005/US/02 :

This is a decision on the petition filed September 12, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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JUL 12 2005

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

In re Application of	:
Stuart B. Levy et al	:
Serial No.: 09/828,456	: PETITION DECISION
Filed: April 6, 2001	:
Attorney Docket No.: PKZ-030	:

This is in response to the petition under 37 CFR 1.181, filed May 5, 2005, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

A review of the file history shows that the examiner mailed an Office action to applicants on March 4, 2003, setting a three month shortened statutory period for reply. A Notice of Abandonment was mailed to applicants on March 22, 2005, when no reply was received. Applicants state that a reply was filed on September 4, 2003, including a request and fee for a three month extension of time, and provide a copy thereof as well as copies of the express mail label. Office records indicate charge of the extension of time fee to applicants' Deposit Account on 9/10/03 indicating receipt of the papers. However the reply was misplaced and never correlated with the file. Applicants have supplied a copy of the missing reply with the petition which will be used. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

COPY MAILED

MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles A. Silva, Jr.	:	
Application No. 09/828,469	:	DECISION ON PETITION
Filed: April 9, 2001	:	TO WITHDRAW
Attorney Docket No. 06975-125001	:	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, former attorney with the firm of Fish & Richardson, P.C.

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.

Applicant is advised that an Examiner's Answer was mailed on October 5, 2006, but there is no indication that a reply has been filed. Therefore, if in fact no reply has been filed, then this application is now abandoned.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,471	04/09/2001	Kevin Michael Kolman	839-941	6769

7590 11/03/2006

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

EXAMINER
GARTENBERG, EHUD

ART UNIT	PAPER NUMBER
3746	

DATE MAILED: 11/03/2006

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
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	20061031

DATE MAILED:

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

Commissioner for Patents

Re: 09/828,471

UNITED STATES 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. KOLMAN ET AL.	:	
Issue Date: September 17, 2002	:	**DECISION GRANTING**
Appl No.: 09/828,471	:	**PETITION**
Filed: April 09, 2001	:	*37 CFR 1.324*
For: Correction of Inventorship and Adding of an Assignee	:	
	:	
	:	
	:	

This is a decision on the petition filed August 29, 2006 to correct inventorship and addition of an assignee 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.

Ehud Gartenberg
Supervisory Patent Examiner
Art Unit 3746
Technology Center 3700

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GINA N. SHISHIMA
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

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DEC 03 2004

OFFICE OF PETITIONS

In re Application of	:	
Jinhua Xiang, et al.	:	
Application No. 09/828,498	:	ON PETITION
Filed: April 5, 2001	:	
Attorney Docket No. IOWA:030US/GNS	:	

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

FRANK P. BECKING
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD
SUITE 200
MENLO PARK CA 94025

COPY MAILED

MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of:
Preissman
Application No. 09/828,539
Filed: April 4, 2001
Attorney Docket No. 361722000201

DECISION ON PETITION

I. BACKGROUND

This is a decision on the August 30, 2001 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of April 5, 2001, rather than the presently accorded filing date of April 4, 2001.

II. THE RULE

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail."

(a)...

(b)...

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d)...

...

IV. ANALYSIS

Petitioner alleges that the application was deposited in Express Mail service on April 5, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EM056842727US showing a "date in" of April 5, 2001.

However, the application in the file wrapper bears a certificate of mailing that carries the Express Mail label number EM570884806US. Accordingly, the copy of Express Mail label number EM056842727US (the one provided with this petition) is of no relevance to the issue at hand.

V. CONCLUSION

In view of the above, *this 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 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10(c)".

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: Office of Petitions
Four Crystal Plaza, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant 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. 12

FRANK P. BECKING
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD
SUITE 200
MENLO PARK CA 94025

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of:
Preissman
Application No. 09/828,539
Filed: April 5, 2001
Attorney Docket No. 361722000201

DECISION GRANTING PETITION

This is a decision on the June 17, 2002 renewed petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of April 5, 2001, rather than the presently accorded filing date of April 4, 2001.

Petitioner alleges that the application was deposited in Express Mail service on April 5, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EM056842727US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 5, 2001.

In view of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to April 5, 2001.

The petition fee will be refunded to Petitioner's deposit account (da#50-0815).

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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NOV 2 4 2003

OFFICE OF PETITIONS

In re Application of Shibata, et al. Application No. 09/828,559 Filed: April 6, 2001 Attorney Docket No. 29288.0300	: : : : :	DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, a copy of which was filed via facsimile on November 17, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application, mailed May 22, 2001, which set an extendable period for reply of two months for applicant to submit an executed oath or declaration and the surcharge for its late filing. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no executed oath or declaration having been received, the above-identified application became abandoned on July 23, 2001. A Notice of Abandonment was mailed on November 18, 2002.

Petitioner states to have never received the Notice to File Missing Parts of Nonprovisional Application. A review of the application file reveals that the Notice was improperly mailed to the address associated with Customer Number 20300. The Utility Patent Application Transmittal filed with the application, as well as the Application Data Sheet, reveal that petitioner directed the Office to forward all communication to the address associated with Customer Number 20322.

In view thereof, **the holding of abandonment is withdrawn.**

The application file is being forwarded to the Office of Initial Patent Examination for remailing of the Notice to File Missing Parts of Nonprovisional Application to the above address of record, and for setting a new period for reply to the Notice.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Mail Date: 04/26/2010

Applicant	: Osamu Shibata	: DECISION ON REQUEST FOR
Patent Number	: 7617402	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/828,559	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1646** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

MOORE & VAN ALLEN
2200 W MAIN STREET
SUITE 800
DURHAM, NC 27705

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In re Application of	:	
Yogendra Joshi et al	:	
Application No. 09/828,564	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. 361007-000012	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 17, 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), or a request for continuing application under 37 CFR 1.114 was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 18, 2003.

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

The application file is being forwarded to Technology Center AU 3743 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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AUG 13 2004

TECHNOLOGY CENTER 2100

Morrison & Foerster LLP
3811 Valley Centre Drive
Suite 500
San Diego, CA 92130-2332

In re Application of:
Ramesh DUVVURU
Application No. 09/828,573
Filed: April 2, 2001
For: PARALLEL BYTE PROCESSING ENGINES SHARED AMONG MULTIPLE DATA CHANNELS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 22, 2004.

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

The request is **GRANTED.**

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

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

cc: Valley Oak Law
Richard Butler
3641 Pleasant Knoll Drive
San Jose, Ca 95148

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

NORMAN H. ZIVIN
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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DEC 29 2003

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Colin Hendrick	:	
Application No. 09/828,613	:	
Filed: April 6, 2001	:	
Attorney Docket No. 61124-A	:	

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 May 20, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 21, 2002.

The application file is being forwarded to Technology Center 2800, Art Unit 2876 for further processing.

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
William C. Olson et al	:	
Application No. 09/828,615	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. 64672/JPW/SHS/NS	:	

This is a decision on the petition, filed April 27, 2006, under 37 CFR 1.313(c)(3) 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 express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : April 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :William C. Olson et al
Application No. :09/828,615
Filed :April 6, 2001

The above-identified application has been assigned Patent No. 7,037,497 and an issue date of May 2, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 2, 2006:

"All reference to Patent No. 7,037,497 to William C. Olson of New York for METHODS FOR INHIBITING HIV-1 INFECTION appearing in the Official Gazette of May 2, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 04-02

Paper No. 6

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

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APR 0 4 2002

OFFICE OF PETITIONS

In re Application of	:
Hitchings, Orlich, Schreiner, and	:
Bossong	: DECISION REFUSING STATUS
Application No. 09/828,616	: UNDER 37 CFR 1.47(a)
Filed: 6 April, 2001	:
Attorney Docket No. P/2167-229	

This is in response to the petition filed under 37 CFR 1.47(a) on 14 January, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 6 April, 2001, without an executed oath or declaration. Accordingly, on 14 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. In response, on 14 January, 2002 (certificate of mailing 19 October, 2001), petitioners filed the present petition and petition fee, a request and fee for a four (4) month extension of the time to reply to the Notice, the required surcharge, and a declaration naming J. Robert Hitchings, Todd Orlich, Joe Schreiner and Edward Bossong as joint inventors and signed by

joint inventors Hitchings, Orlich, and Bossong on behalf of themselves and joint inventor Schreinder. Petitioners assert that Schreiner was sent a copy of the application for patent but has refused orally to sign the declaration.

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 (2). The declaration does not state the citizenship, mailing address, or residence of the non-signing inventor.[1] Additionally, the citizenship has not been provided for joint inventor Hitchings. A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[2] Additionally, it is noted that the mailing address, residence, and citizenship for each inventor has been included only on the copy of the declaration signed by that respective inventor. The mailing address, and residence if the inventor lives at an address different from where the inventor customarily receives mail, and citizenship, for all inventors should be pre-printed on every copy of the declaration submitted to the Office. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 and signed by all of the signing inventors on behalf of themselves and the non-signing inventor must be submitted with a renewed petition.

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

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

---

[1] MPEP 605.01.

[2] 35 U.S.C. § 115, MPEP 605.01.

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.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 08-02

Joe Schreiner
1020 Pennsylvania Avenue
Island Park, NY 11558

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of
Hitchings et al.
Application No. 09/828,616
Filed: 6 April, 2001
For: LIKE KIND EXCHANGE SYSTEM AND METHOD

Dear Mr. Schreiner:

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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 08-02

Paper No. 9

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:
Hitchings, Orlich, Schreiner, and	:
Bossong	: DECISION ACCORDING STATUS
Application No. 09/828,616	: UNDER 37 CFR 1.47(a)
Filed: 6 April, 2001	:
Attorney Docket No. P/2167-229	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 4 June, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Joe Schreiner, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established that a copy of the above-identified application was sent to the non-signing inventor's last known address on more one occasion. By the declaration of registered patent attorney Robert A. Stewart, petitioners have shown that the non-signing inventor orally refused, during a telephone call, to sign the declaration naming him as a joint inventor along with J. Robert Hitchings, Todd Orlich, and Edward Bossong.

It is noted that the declaration filed with the present renewed petition lists a residence address but not a separate mailing address for each joint inventor. Effective 7 November, 2000, 37 CFR 1.63(c)(1) requires the oath or declaration to identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. The addresses listed as the

residence for each inventor will be construed the inventor's mailing addresses for purposes of consideration under 37 CFR 1.47(a). Petitioners must inform this Office, and submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.64, if this is not a correct interpretation.

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 correspondence address has been changed in accordance with the declaration filed on 4 June, 2002. It is also noted that two of the attorneys petitioners have attempted to appoint, Edward Meilman, Reg. 24,735, and Gary M. Hoffman, Reg. No. 26,411, are indicated in Office records as having an inactive registration status.

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

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

DWood

Douglas I. Wood
Petitions Attorney
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

GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/23/2010

Applicant	: J. Robert Hitchings	: DECISION ON REQUEST FOR
Patent Number	: 7606746	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/828,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2398** 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

John D. Newbold
4077 H Layang Layang Circle
Carlsbad, CA 92008

COPY MAILED
OCT 2 8 2003
OFFICE OF PETITIONS

In re Application of :
John D. Newbold, et al. :
Application No. 09/828,621 : ON PETITION
Filed: April 6, 2001 :
For: NOZZLE FOR PRECISION LIQUID :
DISPENSING AND METHOD OF MAKING :

This is a decision on the petition under 37 CFR 1.137(a), filed August 18, 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 (3).

---

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

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. 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).

Petitioner states that from the Office action mailed to him by the examiner that, "it was not clear to the inventor that a response was required. That letter included information regarding claims which were acceptable and claims which were not acceptable. As the inventor, I was prepared to accept that those claims that were unacceptable would be dropped. It was not clear that it was necessary to inform the patent office of this information."

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

In the section marked "Period for Reply" of the Office action mailed to applicant, it states in pertinent part, "Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED." In view thereof, petitioner was clearly informed that a reply to the Office action was due. Accordingly, petitioner's lack of knowledge does not constitute unavoidable delay.

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 or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $665 petition fee. A copy of the unintentional petition form is enclosed herewith for petitioner's use.

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).

The instant petition is not signed by both of the inventors. 37 CFR 1.33(b)(4) states:

> 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 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.

In view thereof, petitioner should note that, upon the filing of a renewed petition under 37 CFR 1.137(a) or upon the filing of an unintentional petition under 37 CFR 1.137(b), the petition must be signed by both inventors.

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 Hicks

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

Enclosure: Blank Unintentional Petition Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Brian L. Verrilli
7407 Brava Street
Carlsbad, CA 92009

COPY MAILED

DEC 3 1 2003

OFFICE OF PETITIONS

In re Application of	:	
John D. Newbold, et al.	:	
Application No. 09/828,621	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. N/A	:	

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

The petition is **DISMISSED**.

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

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

Petitioner has not submitted the $665 petition fee required, but has submitted a blank check. While petitioner's efforts are appreciated, the USPTO cannot accept a check that does not specify the amount. In view thereof, the check submitted with the instant petition is being returned to petitioner and is enclosed herewith. Accordingly, **petitioner must submit a check in the amount of $665 to revive this application.**

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

By Express Mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

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

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

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

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

Marianne E. Morgan

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

Enclosure: Check # 561 made payable to U. S. 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

Paper No. 17

Brian L. Verrilli
7407 Brava Street
Carlsbad, CA 92009

COPY MAILED
JAN 22 2004
OFFICE OF PETITIONS

In re Application of	:	
John D. Newbold, et al.	:	
Application No. 09/828,621	:	ON PETITION
Filed: April 6, 2001	:	
Attorney Docket No. N/A	:	

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

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

BRIAN L. VERRILLI
7407 BRAVA STREET
CARLSBAD, CA 92009

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of
John D. Newbold et al.
Application No. 09/828,621
Filed: April 6, 2001
Attorney Docket No. 1047

ON PETITION

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

The petition is **GRANTED**.

In response to an amendment filed December 15, 2003, a Notice of Non-Compliant amendment was mailed February 26, 2004. Applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the Notice, thus a response was due not later than March 26, 2004. A response in the form of an amendment was filed April 26, 2004. A Notice of Abandonment was mailed as the response filed April 26, 2004 was untimely. The application became abandoned March 29, 2004. Accordingly, a Notice of Abandonment was mailed November 2, 2005.

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

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

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

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

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

Petitioner requests that the amendment filed April 26, 2004 be considered as the required response with the instant petition.

This matter is being referred to Technology Center 3752 for processing of the amendment filed April 26, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 14 2002

#8

PENNE & EDMONDS LLP
1667 K STEET, N.W.
WASHINGTON, D.C. 20006

In re Application of	:	
David C. Paul	:	
Serial No.: 09/828,625	:	DECISION ON PETITION
Filed: April 9, 2001	:	
For: Intervertebral Allograft Spacer	:	

This is in response to the petition applicant filed on April 9, 2001 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700 Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103-6996

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
William R. Shaffer :
Application No. 09/828,660 :
Filed: April 6, 2001 :
Attorney Docket No. 5249-51DI2 (150907) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 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 July 30, 2003, which set a shortened statutory period for reply of three months. A One (1) month extension of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on November 21, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $420 extension of time submitted with the petition on March 12, 2004 was subsequent to the maximum extendable period for reply, this fee will be credited to petitioner's deposit account, as authorized.

The application file is being forwarded to Technology Center AU 2183 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

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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Paper No.

Patrick J. O'Shea
Samuels, Gauthier & Stevens LLP
Suite 3300
225 Franklin Street
Boston MA 02110

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Alexandre El Homsi	:	
Application No. 09/828,710	:	DECISION ON PETITION
Filed: April 6, 2001	:	PURSUANT TO
Attorney Docket Number: 5467	:	37 C.F.R. § 1.137(B)
Title: WORKFLOW SYSTEM	:	
MATRIX ORGANIZATION SEARCH	:	
ENGINE	:	

This is a decision on the petition filed January 8, 2008, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) 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 22, 2007, which set a shortened statutory period for reply of two months. No response

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

was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were available. Accordingly, the above-identified application became abandoned on July 23, 2007. A notice of abandonment was mailed August 22, 2007.

With this petition, Petitioner has submitted the petition fee, corrected drawings, and the proper statement of unintentional delay. No terminal disclaimer is required.

Petitioner has met the first three requirements of Rule 1.137(b). The fourth requirement is not applicable.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

---

2 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. 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: Stephen F. Swinton, Jr.
Hoffman, Warnick & D'Alessandro LLC
75 State St., 14th Floor
Albany, NY 12207

3 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.

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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DENNIS H. LAMBERT
DENNIS H. LAMBERT & ASSOC.
7000 VIEW PARK DRIVE
BURKE VA 22015

COPY MAILED

AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:
Bruce Ross	:
Application No. 09/828,714	:
Filed: April 6, 2001	:
Attorney Docket No. 56970	:

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 27, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 28, 2004. A Notice of Abandonment was mailed on April 28, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the September 16, 2003 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2136 for processing of the Amendment, filed July 22, 2005, in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Daniel H. Golub
1701 Market Street
Philadelphia, PA 19103

Paper No. 7

In re application of
Marc Alaia et al.
Application No. 09/828,731
Filed: April 9, 2001
For: METHOD AND SYSTEM FOR CONDUCTING ELECTRONIC AUCTIONS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 7, 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 October 7, 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 : 11/6/02

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OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

In re Application of
Marc Alaia, et al.
Application No. 09/828,731
Filed: April 9, 2001
Attorney Docket No. ARIBP025C1

ON PETITION

This is a decision on the petition, filed May 22, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 6, 2007. A Notice of Abandonment was mailed on May 8, 2007. In response, on May 22, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 4, 2008

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No. 09/828731 patent no. 7283980

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The correction does not alter scope of the claims or specification and only corrects typographic errors.

SPE

3693
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (09-07)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,283,980

APPLICATION NO.: 09/828,731

ISSUE DATE : October 16, 2007

INVENTOR(S) : ALAIA et al.

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

Claim 17
Line 36, delete "one of the" and insert -- one of a --.

Claim 21
Line 20, delete "first closing time" and insert -- closing time --.
Line 22, delete "first lot" and insert -- lot --.
Line 26, delete "first lot" and insert -- lot --.

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

Van Pelt, Yi & James LLP
10050 N. Foothill Blvd., Suite 200
Cupertino, CA 95014

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

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

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Paper No. 7

MEADWESTVACO CORPORATION
LAW DEPARTMENT
4850 NORTH CHURCH LANE
SUITE D
SMYRNA, GA 30080

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Hunter et al.	:	
Application No. 09/828,736	:	ON PETITION
Filed: April 9, 2001	:	
Attorney Docket No. D-3026-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (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. A Notice of Abandonment was mailed on October 22, 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 the Office of Initial Patent Examination 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

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SUITE 250
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In re Application of

Chaur-Wen

Application No. 09/828,765

Filed: April 9, 2001

Attorney Docket No. JCLA6451

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 23, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to reply to the non-final mailed October 4, 2003. The notice 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 January 5, 2004. A Notice of Abandonment was mailed on October 1, 2004.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2600, GAU 2654 for resetting of the time period for responding to the non-final Office action and re-mailing of the same.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application	:	
Wilk, et al.	:	
Application No. 09/828,794	:	PATENT TERM ADJUSTMENT
Filed: April 10, 2001	:	
Dkt. No.: 7883.011-01	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 19, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 297 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 292 days as indicated on the Determination of Patent Term Adjustment mailed May 20, 2004 to 320 days.

A review of the application history reveals that an adjustment of 333 days under 37 CFR 1.702(a)(1) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began June 11, 2002, the day after the date that is fourteen months from the date the application was filed, and ended May 9, 2003, the date the non-final Office action was mailed. There were no further delays attributed to the Office[1].

[1] The initial Determination of Patent Term Adjustment indicated an adjustment of 23 days for Office delays under 37 CFR 1.702(a)(2) relative to the mailing of the final Office action on December 23, 2003. The Office timely mailed the final Office action within four months of the date the supplemental response to the non-final Office action was filed, thus, the adjustment of 23 days is in error.

In accordance with 37 CFR 1.704(b), the adjustment of 333 days is reduced 36 days for applicants' failure to engage in reasonable efforts to conclude prosecution. The reduction began August 1, 2003, the day after the date that an initial response to the non-final Office action was filed, and ended September 5, 2003, the date of submission of a supplemental response.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 297 days.

The required fee of $200.00 for an application for patent term adjustment has been submitted.

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.

Karin Ferriter Key & Fee pce
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUL 23 2004

OFFICE OF PETITIONS

In re Application of :
Whang, et al. :
Application No. 09/828,819 :
Filed: April 10, 2001 :
Attorney Docket No. 2632-0142P :

ON PETITION

This is a decision on the petition under 37 CFR 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 file a proper reply to the Office action mailed June 6, 2003. A three month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is December 7, 2003. A Notice of Abandonment was mailed on March 23, 2004.

The file is being forwarded to Technology Center 1700 for review of the amendment, filed February 27, 2004, *in due course*.

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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BIRCH, STEWART, KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Chung Nam WHANG, et al	:	
Application No. 09/828,819	:	DECISION ON PETITION
Filed: April 10, 2001	:	TO WITHDRAW
Attorney Docket No. 2632-0142P	:	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 2, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the act noted above at items 1 and 2 have been performed.

The request cannot be approved because the attorneys of record were not appointed by Customer No. 02292, as indicated.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PNT TECHNOLOGY INC.
DAEJU B/D 3F, SEOCHO-DONG
SEOCHO-KU
SEOUL, REPUBLIC OF KOREA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 09 2002

OFFICE OF DIRECTOR
GROUP

Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street NW
Washington, DC 20037-1526

In re Application of:
Sherrer *et al.*
Application No. 09/828,842
Filed: April 10, 2002
Attorney Docket No. A1148.0000/P002

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 13, 2002, and supplemented on July 24, 2002.

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

The request was signed by William Powell, III, an attorney of record, on behalf of the other identified attorneys of record. Additionally, there is no outstanding Office action requiring a response from applicant.

Accordingly, the request is **approved.** Attorneys Martin Meder and Dan A. Steinberg remain as attorneys of record.

As indicated in the request, all future communications from the Office will be directed to, Haleos Inc., at the below-listed address until otherwise notified by the applicant or assignee.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Haleos Inc.
3150 State Street
Blacksburg, VA 24060

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Paper No. 072304

DANN, DORFMAN, HERRELL & SKILLMAN
1601 Market Street
Suite 2400
Philadelphia, PA 19103-2307

JUL 27 2004

In re Application of:	:	
SHERRER *et al.*	:	*SUA SPONTE*
Serial No.: 09/828,842	:	DECISION WITHDRAWING HOLDING OF
Filed: April 10, 2001	:	ABANDONMENT
Attorney Docket No.: **A1148.0000/P002**	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on November 28, 2003. A Notice of Abandonment was mailed on July 20, 2004.

A review of the written record indicates that a proper Request for Continued Examination (RCE) was previously filed on February 24, 2004, but not properly processed in the application prior to the mailing of the Notice of Abandonment. Since the RCE was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of	:	
HSI-HSUN HUANG	:	
Application No. 09/828,856	:	DECISION ON REQUEST TO
Filed: April 10, 2001	:	WITHDRAW AS ATTORNEY
For: **NETWORK SERVER FOR PROVIDING SCANNING FUNCTIONALITY TO A COMPUTER**	:	

This is a decision on the request to withdraw as attorney/agent of record filed on August 18, 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.

The practitioners of record include those of Customer Number 27,765. The undersigned, Mord Michael Lewis, is not of record, since he is not listed under Customer Number 27,765.

Accordingly, the request is **DISMISSED AS MOOT**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

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OFFICE OF PETITIONS

In re Application of

Carlsson, et al.

Application No. 09/828,864

Filed: April 10, 2001

Attorney Docket No. P12545-US1-BMOA

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 18, 2007.

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

This application was held abandoned on February 3, 2007, after it was believed that no response was received to the non-final Office action mailed November 2, 2006. The non-final Office action allowed a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on July 12, 2007, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was timely received by the Office. A review of the application file revealed that an amendment responsive to the non-final Office action was filed on February 1, 2007, and matched with the subject application. It appears that the application was improperly held abandoned as a response to the non-final Office action was filed prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2600, GAU 2616, for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Joseph B. Weinman Jr.	:	
Application No. 09/828,869	:	ON PETITION
Filed: April 10, 2001	:	
Attorney Docket No. 03493.00122	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 26, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 27, 2005.

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

This matter is being referred to Technology Center AU 2154.

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

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P. O. BOX 71355
MARIETTA GA 30007-1355

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of
Sunil H. Contractor
Application No. 09/828,904
Filed: April 10, 2001
Attorney Docket No. **20009.0131US01 (BS00-363)**

ON PETITION

This is a decision on the petition filed May 31, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned January 26, 2007 for failure to file a proper and timely response to the Final Office Action mailed October 25, 2006. Accordingly a Notice of Abandonment was mailed May 14, 2007.

Petitioner claims that the Office Action was mailed to the previous attorneys of record at the previous address of record.

A review of the file reveals however that a power of attorney and address change was filed on August 27, 2004 but that the information was not updated prior to the mailing of the Final Office Action on October 25, 2006. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2121 for a re-mailing of the Final Office Action previously mailed October 25, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 14

Crowell & Moring, LLP
Intellectual Property Group
PO Box 14300
Washington, DC 20044-4300

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NOV 26 2003

OFFICE OF PETITIONS

In re Application of	:	
Ralf Kehr	:	
Application No. 09/828,961	:	ON PETITION
Filed: April 10, 2001	:	
Attorney Docket No. 951/49531	:	

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

The petition is granted.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 25, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 26, 2003.

The application file is being forwarded to Publishing Division.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 26

CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of	:
Ralf Kehr	:
Application No. 09/828,961	: DECISION GRANTING PETITION
Filed: April 10, 2001	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 951/49531	:

This is a decision on the petition, filed December 19, 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 November 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[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 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

---

[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).

6RE

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of	:
Ralf Kehr	:
Application No. 09/828,961	: DECISION GRANTING PETITION
Filed: April 10, 2001	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 951/49531	:

This is a decision on the petition, filed December 19, 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 November 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[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 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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Paper No. 7

BORDEN LADNER GERVAIS
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Peter Huszcz	:	
Application No. 09/828,963	:	ON PETITION
Filed: April 10, 2001	:	
Attorney Docket No. PAT 429-2	:	

This is a decision on the petition under 37 CFR 1.137(b) , filed November 20, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 18, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 19, 2001.

Pursuant to petitioner's authorization, Deposit Account No. 50-1593 was charged $665.00 for the petition to revive an unintentionally abandoned application.

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

The application file is being forwarded to the Office of Initial Patent Examiantion for preexamiantion processing.

Wan Laymon

Wan Laymon
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
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 2 4 2005

Fenster & Company Intellectual Property 2002 LTD
c/o Reed Smith LLP
599 Lexington Avenue
29th Floor
New York, NY 10022-7650

In re Application of	:
Zion Azar	:
Application No. 09/828,997	: DECISION ON PETITION
Filed: April 1, 2001	:
Attorney Docket No. 127/02185 A07	:

This is a decision on the petition filed on January 24, 2005 by which petitioner requests that the finality of the rejection dated December 10, 2004 be held to have been premature, and requesting that prosecution be reopened. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioner alleges that the Office action in question is incomplete because certain of the claims did not receive an action on the merits, but were erroneously held to be multiple dependent claims that are drafted in improper format. Petitioner further alleges that it was improper to make the Office action in question final because certain of the finally rejected claims that had not been amended after the prior action received a rejection on grounds differing from those set forth in the prior rejection.

A review of the record shows that in the final rejection dated December 10, 2004, the examiner included the following objection:

> "Claims 29-40 are objected to under 37 CFR 1 .75(c) as being in improper form because a multiple dependent claim must refer back to a preceding claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits."

It appears that this objection resulted from the fact that the amendment filed, on September 10, 2004 in response to a nonfinal Office action dated June 7 2004, added new independent claims, and amended certain dependent claims already of record having lower claim numbers than the newly added claims so that the dependent claims depended from the new independent claims having higher claim numbers.

A review of the record also shows that the amendment filed on September 10, 2004 included several claims that had been rewritten in independent form without any substantive change to the scope of the written claim. Claim 5 is one example. Claim 5 as amended on September 10, 2004 is identical in scope to claim 5 as rejected in the Office action dated June 7, 2004. Yet in the June 7, 2004 Office action, claim 5 was rejected under 35 USC § 102(b) over U.S. Patent No. 5,814,008, while in the final rejection dated December 10, 2004, claim 5 was rejected under 35 USC § 103 for obviousness over the '008 patent, taken with the examiner's statement as to why a particular limitation would have been obvious to one of ordinary skill in the art.

On the issue of the propriety of failing to act on the merits of the dependent claims that referred "back to" parent claims having higher claim numbers, MPEP § 608.01(n) is quite clear with respect to both single

dependent claims and multiple dependent claims. During prosecution of the application, it may be that a dependent claim will be presented as depending from a claim with a higher claim number. See MPEP §§ 608.01(n)(I(F), 4th paragraph and 608.01(IV), paragraph 3. Although it is proper for an examiner to remind an applicant for patent that the claims will be renumbered upon allowance so that all dependent claims refer back only to claims having lower numbers, there was no reason for the examiner to refuse consideration of the claims that were objected to on their merits when these claims were clear, and could be understood by the examiner. The failure to act on these claims was clearly erroneous.

MPEP § 706.07(a) is equally clear with respect to propriety of making an action final. This section states that:

> [u]nder present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement .... ."

Inasmuch as the Office Action dated December 5, 2004 rejected at least claim 5 on grounds differing from the ground of rejection applied against the claim in the previous Office action notwithstanding that the scope of claim 5 had not been substantively changed, it was clear error for the examiner to make the December 10, 2004 action final.

As it appears that the examiner's final action dated December 10, 2004 erroneously failed to treat certain dependent claims on their merits, and should not have been made final, petitioner is clearly entitled to the relief requested. The finality of the Office letter dated December 10, 2004 is hereby vacated. The application is being returned to the examiner *via* the Supervisory Patent Examiner of Art Unit 3739 who will prepare a new and nonfinal action treating all of the claims of record. The preparation of this action should be given priority.

PETITION GRANTED.

Richard A Bertsch, Director
Technology Center 3700

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Paper No. 25

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

COPY MAILED
JUN 2 3 2004
OFFICE OF PETITIONS

In re Application of	:	
Rasche, et al.	:	DECISION ON PETITION
Application No. 09/829,007	:	
Filed: April 10, 2001	:	
Atty. Dkt. No.: EAMC00-09 01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 29, 2003 for failure to timely file a proper appeal brief in response to the Notice of Defective Brief mailed November 28, 2003. Notice of Abandonment was mailed March 9, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition 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 final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3700 for processing of the Appeal Brief submitted with the instant petition.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201

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FEB 26 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
Salim G. Kara :
Application No. 09/829,015 :
Filed: April 9, 2001 :
Attorney Docket No. 61135-P000C2CP1C1-10106029 :

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

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

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

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

This file is being forwarded to Technology Center 2100.

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

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Paper No. 112403

NOV 25 2003

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of:	:	
Shigeki Obayashi	:	DECISION ON PETITION
Serial No.: 09/829,046	:	TO WITHDRAW HOLDING
Filed: April 10, 2001	:	OF ABANDONMENT
Attorney Docket No.: **57454-072**	:	

This is a decision on the petition filed August 22, 2003, for reconsideration of holding of abandonment. The petition has bee treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the required issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on November 28, 2001. A Notice of Abandonment was mailed on May 01, 2002.

Petitioner asserts that the Notice mailed on November 28, 2001, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received and a copy of the file docket where the Office action would have been entered.

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 practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, including the attachments, is sufficient to establish a showing of non-receipt of the Notice mailed November 28, 2001.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Issue Fee Due. The shortened statutory period for response will be reset to run from the date the Notices are re-mailed. Extensions of time are not available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#9

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Paper No. 112403

NOV 25 2003

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of:
Shigeki Obayashi
Serial No.: 09/829,046
Filed: April 10, 2001
Attorney Docket No.: **57454-072**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 22, 2003, for reconsideration of holding of abandonment. The petition has bee treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the required issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on November 28, 2001. A Notice of Abandonment was mailed on May 01, 2002.

Petitioner asserts that the Notice mailed on November 28, 2001, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received and a copy of the file docket where the Office action would have been entered.

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 practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, including the attachments, is sufficient to establish a showing of non-receipt of the Notice mailed November 28, 2001.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Issue Fee Due. The shortened statutory period for response will be reset to run from the date the Notices are re-mailed. Extensions of time are not available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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: August 10, 2004 **Time Sent:**

To:	**Company:**	**Facsimile No:**	**Telephone No:**
Wynette Stapor	USPTO	571-273-1626	571-272-1626

From:	Lorna L. Mullenax	*Direct Phone:*	202.756.8613
E-Mail:	lmullenax@mwe.com		
Sent By:		*Direct Phone:*	
Client/Matter/Tkpr: 43n	57454-072	*Original to Follow by Mail:*	No
		Number of Pages, Including Cover:	

Re: U.S. Patent Application 09/829,046

Message:
In accordance with our phone conversation, attached hereto are copies of the Petition and Decision which you indicated are not in the USPTO file. Please confirm this application is restored to pending status and the Notice of Allowance is forthcoming.

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the below address by mail. Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL AS SOON AS POSSIBLE.

Main Facsimile: 202.756.8087 Facsimile Operator: 202.756.8090

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

#9

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Paper No. 112403

NOV 25 2003

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

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MW&E

In re Application of:
Shigeki Obayashi
Serial No.: 09/829,046
Filed: April 10, 2001
Attorney Docket No.: **57454-072**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 22, 2003, for reconsideration of holding of abandonment. The petition has bee treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the required issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on November 28, 2001. A Notice of Abandonment was mailed on May 01, 2002.

Petitioner asserts that the Notice mailed on November 28, 2001, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received and a copy of the file docket where the Office action would have been entered.

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The petition, including the attachments, is sufficient to establish a showing of non-receipt of the Notice mailed November 28, 2001.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Issue Fee Due. The shortened statutory period for response will be reset to run from the date the Notices are re-mailed. Extensions of time are not available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

571 272-1594

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

****
*** TX REPORT ***
****

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ST. TIME	10/24 15:15
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McDermott, Will & Emery
600 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-3096

FACSIMILE TRANSMITTAL FORM

OUR FACSIMILE NUMBER IS: 202-756-8087
OUR CONFIRMATION NUMBER IS: 202-756-8090

DATE: 10/24/03 NO. OF PAGES (INCLUDING COVER SHEET): 6

TO: Wynette Stapor Fax No 703-746-6880

COMPANY USPTO CLIENT NUMBER: 57454-072

FACSIMILE NUMBER:

SENDING PARTY: Lorna Mullenax DIRECT PHONE: 202-756-8613

RE: Serial No. 09/829,046

In accordance with our phone conversation of today, attached are copies of the Petition and attachments filed on August 22, 2003 and a copy of the stamped postcard.

I look forward to hearing from you regarding the Petition and Notice of Allowance.

DATE & TIME RECV'D
IN OFFICE SERVICES

McDermott, Will & Emery
600 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-3096

FACSIMILE TRANSMITTAL FORM

OUR FACSIMILE NUMBER IS: 202-756-8087
OUR CONFIRMATION NUMBER IS: 202-756-8090

DATE: 10/24/03 NO. OF PAGES (INCLUDING COVER SHEET): 6

TO: Wynette Stapor Fax No 703-746-6880

COMPANY USPTO CLIENT NUMBER: 57454-072

FACSIMILE NUMBER:

SENDING PARTY: Lorna Mullenax DIRECT PHONE: 202-756-8613

RE: Serial No. 09/829,046

In accordance with our phone conversation of today, attached are copies of the Petition and attachments filed on August 22, 2003 and a copy of the stamped postcard.

I look forward to hearing from you regarding the Petition and Notice of Allowance.

PLEASE NOTE:

This facsimile originates from the Washington office of McDermott, Will & Emery. If there are any problems regarding the reception of the number of pages listed above, please call our facsimile center at the following number: 202-756-8090 (M-F 7:30 a.m. to 9:00 p.m.), or the sending party at the above listed number.

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Applicant: Shigeki OHBAYASHI Docket No. 57454-072

Title: STATIC SEMICONDUCTOR MEMORY DEVICE HAVING T-TYPE BIT LINE STRUCTURE Serial/Reg./Patent No. 09/829,046

Date Sent: 8/22/2003 ☐ Hand Carried ☐ Fax ☐ Electronic ☐ Cert. of Mailing ☐ Express Mail No. _____

☐ Transmittal Letter

New Patent App ☐ Utility ☐ Design ☐ Cont. ☐ CIP ☐ Div. ☐ PCT ☐ RCE ☐ Prov

☐ Other: _____

_____ pages of Specification

_____ pages of Claims

_____ pages of Abstract

_____ pages of Formal/Informal Drawings

☐ Small Entity ☐ Large Entity

☐ Declaration/Power of Attorney

☐ Recordation of Assignment/Security Agreement

☐ Information Disclosure Statement

_____ Form PTO 1449

_____ copies of cited references

☐ Preliminary Amendment

☐ Response to Missing Parts Notice

☐ Resp. to Notice to Correct App. Papers

☐ Certified Copy of Priority Doc.

☐ Claim for Convention Priority

☐ Response/Amendment to Office Action of _____

☐ Request for _____ month Extension of Time

☐ Letter submitting _____ pages of drawings

☐ Req. for Approval of Drawing Amendments

☐ Req. for Oral Hearing

☐ Not. of Appeal ☐ Appeal Brief ☐ Reply Brief

☐ Rule 312 Amendment/Letter

☐ Req. for Acknowledgement of Cited Art

☐ Issue Fee

☐ Publication Fee

☐ Req. for Certificate of Correction

☐ Maintenance Fee for _____ years after grant

☐ Fee Address Indication Form _____

☐ Terminal Disclaimer

☐ Petition to Commissioner

☐ Status Inquiry

☒ Other Petition for Reconsideration of Holding of Abandonment & Attachments

OIPE JC98 AUG 2 2 2003 IN A TRADEMARK OFFICE

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CMS Descrip.: _____ _____ _____ _____

THE PATENT AND TRADEMARK OFFICE DATE STAMPED HEREON IS ACKNOWLEDGEMENT THAT THE ITEMS, CHECKED ABOVE, WERE RECEIVED BY THE PTO ON THE DATE STAMPED.

#8

Docket No.: 57454-072 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	**CUSTOMER NO. 20277**
Shigeki OHBAYASHI	
Serial No.: 09/829,046	Group Art Unit: 2818
Filed: April 10, 2001	Examiner: not yet assigned

For: STATIC SEMICONDUCTOR MEMORY DEVICE HAVING T-TYPE BIT LINE STRUCTURE

PETITION FOR RECONSIDERATION OF HOLDING OF ABANDONMENT

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

Sir:

We are in receipt of the Notice of Abandonment received in the above-referenced application which indicates this application has been abandoned for failure to pay the Issue Fee within the statutory period of three months from the mailing date of the Notice of Allowance.

It is respectfully submitted that the Notice of Allowance was never received in our office, and therefore the Issue Fee was never processed within our docketing system.

Applicant filed a Status Inquiry on December 9, 2002. No reply was received to this inquiry. Applicant filed a Second Status Inquiry on July 15, 2003. In reply to this status inquiry a copy of the Notice of Abandonment was received on August 1, 2003.

PAGE 7/10 * RCVD AT 8/10/2004 11:25:40 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/26 * DNIS:2731626 * CSID:2027568087 * DURATION (mm-ss):03-06

09/829,046

The Notice of Abandonment did not indicate when the Notice of Allowance was mailed. We contacted Wynette Stapor of TC2800 and were informed the Notice of Allowance was mailed on November 28, 2001.

We conducted a thorough search of all docketing systems to determine if the Notice of Allowance was ever received. All dockets failed to indicate the Notice of Allowance was ever received. Enclosed is a copy of the automated docket of our Docketing Department and also a copy of the page from the Docket Book of our Allowed Applications Department for the due date of February 28, 2002. Each of these docket entries evidence that the Notice of Allowance was not received in our office.

It is requested that this Petition alleging non-receipt of the Notice of Allowance, be treated as a Request to Withdraw a Holding of Abandonment and the **Petition Fee be refunded**. It is believed that this Petition supports the revival of this application, which was abandoned unavoidably due to non-receipt of the Notice of Allowance and Issue Fee Due Notice. It is respectfully requested that the Notice of Abandonment be rescinded and the application returned to pending status and processed for issuance.

Please charge any shortage in fees due in connection with the filing of this paper, including petition and extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Gene Z. Rubinson

Gene Z. Rubinson
Registration No. 33,351

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 GZR:llm
Facsimile: (202) 756-8087
Date: August 22, 2003

s follow - [redacted] 50th day – 30[redacted] s follow

NONE DU[redacted]

THURS[redacted] 28 FEBRUARY

	44239-020	IF	Minolta	EJW
Pd	49657-117	IF + ~~dwgs~~ 2/22	Fukami	SAB OK 2-15
Pd 2/22	50013-199	IF, ~~Pub fee~~ 2/22 + ~~dwgs~~ 2/22		OK 2-19
Pd 1-31	58647-020	IF	Tanita	MAM OK 1-25
Pd 2-27-02	49959-139	IF	Applied Materials	MAM pays fee
Pd 1-31	50395-051	IF	Sumitomo	AJS OK 1-22
Pd 2/27	50229-210	IF + ~~dwgs~~ 2/27	Univ. Kay	RLP
Pd 2/20	49657-621	IF	Fukami	SAB OK 2/15 wants div
Pd 2/21	49657-975	IF 2/21	~~Dwg~~ ~~Publ fee~~ 2/21	Fukami SAB
Pd 2/21	49657-514	IF	Fukami	SAB OK 2/15
Pd	49657-916	IF 2/22	~~Dwg~~ ~~Publ fee~~ 2/22	Fukami SAB OK 2/15
Pd 2-13	49657-593	IF	Fukami	SAB OK 2-6
Pd 2/25	50100-903	IF + ~~Dwg~~ 2/25	AMD	JAH AW
RCE 2/28	49657-981	IF + Pub. fee	Fukami	SAB wants RCE
	63288-296	IF	Bell Howell	WFG-JAW
Pd 2/20	49657-821	IF + ~~Pub fee~~ 2-20	Fukami	SAB OK 2-13
Pd 2-13	49657-997	IF + ~~Pub fee~~ 2-13	Fukami	SAB OK 2-6
Pd 2-21	49657-601	IF	Fukami	SAB OK 2-13
Pd 2-1	50090-177	IF	Takada	SAB OK 1-25
Pd 2/21	50432-028	IF + ~~dwgs~~ 2/21	AMD	JAH
Pd 2/20	49657-690	IF + ~~Pub fee~~ 2/20	Fukami	SAB OK 2/15 wants div
2-14	49657-897	IF + ~~Pub fee~~ 2-14	Fukami	SAB OK wants div
	43889-695	IF	Maeda	MEF OK 1-7
Pd 2/28	50395-064	IF	Sumitomo	AJS OK [illegible]
P	57454-012	IF, ~~Pub fee~~ 2/12	Fukami	SAB
	57454-177	IF + ~~Pub fee~~ 2-26	Fukami	SAB OK 2-13
13	44085-149	IF, ~~Pub fee~~ 2-13	Minolta	EJW
Pd	49677-070	IF	NGB + ~~dwgs~~ 2/22	SAB OK 2/15
Pd	43889-727	IF	Matsushita	MEF OK 1-16

Patent Due Date List By Date

From 28-Feb-2002 To 28-Feb-2002

Due date/ Date Type	Reason for Date	Action Base Date/ Action Type	Family	Client -Matter (APP)	ountr	Application Number	Filing Date	Resp. Atty/ Assign Atty/ Paralegal/
28-Feb-2002	NOA MAILED?	29-Jan-2002	057454-0041	057454-0041	US	09/810,503	19-Mar-2001	SAB
Reminder		US-Allowance/Publication Fee		FUKAMI PATENT OFFICE				DT
	Status: Published				United States of America			
			Title: SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE CAPABLE OF PERFORMING OPERATIONAL TEST FOR CONTAINED MEMORY CORE AT OPERATING FREQUENCY HIGHER THAN THAT OF MEMORY TESTER					NOA
			Remarks: NOA W/PUB FEE DUE DTD 1/29/02 RECD 2/1/02					
28-Feb-2002	EXPECTED PUBLICATION DATE	28-Feb-2002	057454-0051	057454-0051	US	09/814,108	22-Mar-2001	SAB
Due Date		EXPECTED PUBLICATION DATE		FUKAMI PATENT OFFICE				SAB
	Status: Pending				United States of America			
			Title: SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE PROVIDED WITH A LOGIC CIRCUIT AND A MEMORY CIRCUIT AND BEING CAPABLE OF EFFICIENT INTERFACE BETWEEN THE SAME					APP
28-Feb-2002	EXPECTED PUBLICATION DATE	28-Feb-2002	057454-0116	057454-0116	US	09/855,594	16-May-2001	SAB
Due Date		EXPECTED PUBLICATION DATE		FUKAMI PATENT OFFICE				SAB
	Status: Pending				United States of America			
			Title: DATA PROCESSING APPARATUS OF HIGH SPEED PROCESS USING MEMORY OF LOW SPEED AND LOW POWER CONSUMPTION					APP
28-Feb-2002	EXPECTED PUBLICATION DATE	28-Feb-2002	057454-0121	057454-0121	US	09/860,612	21-May-2001	SAB
Due Date		EXPECTED PUBLICATION DATE		FUKAMI PATENT OFFICE				SAB
	Status: Pending				United States of America			
			Title: SEMICONDUCTOR INTEGRATED CIRCUIT PROVIDED WITH DETERMINATION CIRCUIT					APP

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Paper No. 9

JUN 17 2003

In re Application of
Raizo Kuge *et al*
Application No. 09/829,071
Filed: April 10, 2001
Attorney Docket No. 8014-1042

DECISION ON PETITION

This is a decision on the petition filed on June 2, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated November 6, 2002. No fee is required for the petition.

The petition is dismissed as moot.

The record shows that the a reply to the Office letter in question was filed on May 6, 2003 and was associated with the application file only after a Notice of Abandonment had been mailed. The record further shows that a letter rescinding the abandonment was prepared by the Supervisory Patent Examiner and mailed to petitioners on May 30, 2003.

As the holding of abandonment has been rescinded and the record shows that the application is not abandoned, the instant petition is moot. The application is being forwarded to the Supervisory Patent Examiner for prompt action on the amendment filed May 30, 2003.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 10

KIMBERLEY G. NOBLES
IRELL & MANELLA, LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, VA 92660

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NOV 2 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Baldwin, et al.	:	
Application No. 09/829,074	:	ON PETITION
Filed: April 9, 2001	:	
Attorney Docket No. 155607-0351	:	

This is a decision on the petition under 37 CFR 1.182, filed August 28, 2002, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. ROBERT W. BALDWIN
2. JEAN-PAUL ABGRALL
3. JOHN D. BARR
4. JOSE A. CASILLAS
5. DAVID P. JABLON
6. TIMOTHY J. MARKEY
7. PANNAGA KOTLA
8. KAI WANG
9. STEVEN D. WILLIAMS

This application is being forwarded to the Office of Initial Patent Examination to enter the above change in the order of inventors.

Telephone inquiries concerning this matter may 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

KIMBERLEY G NOBLES
IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
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NEWPORT BEACH CA 92660

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DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of Robert W. Baldwin, Jean-Paul Abgrall, John D. Barr, Jose A. Casillas, David P. Jablon, Timothy J. Markey, Pannaga Kotla, David Pitard, Kai Wang, Steven D. Williams Application No. 09/829,074 Filed: April 9, 2001 Attorney Docket No. 155607-0351	DECISION ON PETITIONS

This is a decision on the petition to correct inventorship under 37 CFR 1.48(a), and the petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.64, both filed on March 3, 2003. Petitioner has enclosed $260, which covers the processing fees for consideration of each petition.

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

The petition under 37 CFR 1.48(a) is **GRANTED**.

The above-identified application was filed on April 9, 2001 with a declaration executed by Robert W. Baldwin, Jean-Paul Abgrall, John D. Barr, Jose A. Casillas, David P. Jablon, Timothy J. Markey, Pannaga Kotla, Kai Wang, and Steven D. Williams as joint inventors. On March 3, 2003, the instant petition under 37 CFR 1.48(a) was filed to amend the inventorship to add joint inventor David Pitard.

37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), (4) and (5) above. The petition specifically requests the addition of inventor David Pitard. Petitioner has included the required statement from Pitard. Petitioner has paid the processing fee. Finally, the petition includes a statement signed by Linda V. Moore, Senior Vice President and General Counsel of assignee Phoenix Technologies, Ltd.

However, petitioner has not submitted a 37 CFR 1.63 declaration executed by all of the inventors as required by 37 CFR 1.48(a)(3). The 37 CFR 1.63 declaration was not executed by inventors Abgrall and Kotla. In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules. In the "Declaration of Jonathan Lindsay in Support of Petition Under 37 CFR 1.48(a)", petitioner attested that copies of the corrected declaration were forwarded to Abgrall and Kotla. The corrected declaration was received by Abgrall (as evidenced by a Certified Mail receipt), but never returned. The copy sent to Kotla was returned to sender. Thereafter, an unsuccessful attempt was made to locate Kotla, as evidenced by copies of internet search results.

Accordingly, the newly executed declaration filed on March 3, 2003 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(3) that all the inventors sign a reexecuted oath or declaration has not been satisfied.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2134 for examination in due course.

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
Director
Office of Petitions

Enc: corrected filing receipt (2 pages)

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DANIEL R. JOSEPH
SUITE 101
2125 SOUTH GREAT SW PARKWAY
GRAND PRAIRIE TX 75051

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OFFICE OF PETITIONS

In re Application of	:	
Daniel R. JOSEPH	:	
Application No. 09/829,084	:	DECISION ON PETITION
Filed: April 09, 2001	:	
Attorney Docket No. DRJ 04524 PTUS	:	

This is a decision on the petition under 37 CFR 1.181, filed June 12, 2009, originally filed October 09, 2007, being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

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

The petition under 37 CFR 1.137(b) 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 April 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of April 20, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1722 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SUGAR LAND TX 77478

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APR 28 2005

OFFICE OF PETITIONS

In re Application of
Bentley J. Palmer et al.
Application No. 09/829,110
Filed: April 9, 2001
Attorney Docket No.: 56.0550
Title: SCALE REMOVAL

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

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

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 25, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on November 26, 2004. A Notice of Abandonment was mailed on January 3, 2005.

With the petition, Petitioner has submitted the petition, issue, and publication fees, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

---

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

2 See MPEP §710.02(e).

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

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Patent No. 6,835,132 :
Issue Date: December 28, 2004 :
Application No. 09/829,126 : ON PETITION
Filed: April 9, 2001 :
Attorney Docket No. 3182/FBR :

This is a decision in response to a petition, filed March 10, 2009, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

There is no indication that the petition is signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Lawrence M. Jarvis appearing on the correspondence 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. If Attorney Jarvis 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 the petitioner herein; however, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This patent expired on December 28, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

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. Nonetheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Receipt is acknowledged of the requisite maintenance fee and surcharge.

Accordingly, the 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

The file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LAWRENCE M. JAVIS
MCANDREWS, HELD & MALLOY, LTD
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, IL 60661

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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of
Salman Akram
Application No. 09/829,161
Filed: April 9, 2001
Attorney Docket No. 3442.1US(96-428.1)

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed March 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2812 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

John L. Rogitz
Rogitz & Associates
750 B. Street, Suite 3120
San Diego, CA 92101

In re Application of	:
Duncan, et al.	: DECISION GRANTING PETITION
Application No. 09/829,249	: UNDER 37 CFR 1.137(b)
Filed: April 9, 2001	:
Atty. Dkt. No.: ARC920010027US1	:

This decision is in response to the petition under 37 CFR 1.137(b), filed April 4, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned December 28, 2005 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 27, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed March 29, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAIL Paper No. 3

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK M. TAKAHASHI
GRAY CARY WARE & FREIDENRICH, LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO CA 92121-2133

In re Application of	:	
Brett KELTS	:	
Application No. 09/829,263	:	DECISION ON REQUEST TO
Filed: April 9, 2001	:	WITHDRAW FROM RECORD
For: INTERACTIVE CONTENT GUIDE FOR TELEVISION PROGRAMMING	:	

This is a decision on the request to withdraw as attorney/agent of record filed on November 25, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Brett Kelts
MCP
18552 MacArthur Boulevard, #208
Irvine, CA 92612

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Potomac Patent Group PLLC
P.O. Box 270
Fredericksburg, VA 22404

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MAY 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Brett R. Kelts	:	
Application No. 09/829,263	:	NOTICE
Filed: April 9, 2001	:	
Attorney Docket No. 0320-080	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/06

TO SPE OF : ART UNIT **2836**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/829339 6900972

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:

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE | **Art Unit** 2836

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/06

TO SPE OF : ART UNIT **2836**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/829339 6900972

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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

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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:

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2836

#5 Pet. Granted

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/829,391	**5/3/01**	**LOUIS CANUEL**	**CAN0137**

Title: **SANITARY NAPKIN WITH BREATHABLE EXTENSION**

Art Unit	Paper Number

Correspondence Address:
ERIC P. SCHELLIN
SCHELLIN & ASSOCIATES
2121 CRYSTAL DRIVE, STE. 704
ARLINGTON, VA. 22202

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 526,872
Grant Date: 04-May-01

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

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This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

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LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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Paper No. 10

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Canuel
Application No. 09/829,391
Filed: April 9, 2001
Attorney Docket No. CAN-137
For: SANITARY NAPKIN WITH BREATHABLE EXTENSION

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 12, 2003 (certificate of mailing date May 8, 2003), to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The application was held abandoned for failure to respond in a timely manner to a non-final Office action mailed on October 3, 2002. Having no record of receiving a reply, the Office contended that the application became abandoned on January 4, 2003. A Notice of Abandonment was mailed on April 15, 2003.

Petitioner asserts that a proper response was in fact timely filed in the form of an amendment. In support of his position, petitioner submitted a copy of a date-stamped post card receipt acknowledging receipt of an amendment in the United States Patent and Trademark Office (Office) on January 7, 2003. Petitioner submitted a copy of the amendment with the present petition.

The original response is not of record in the file and cannot be located. However, MPEP § 503 states, " [a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the amendment was received in the Office but was not matched with the application file.

In addition, the amendment bears a proper certificate of mailing, dated January 2, 2003, in compliance with the requirements of 37 CFR § 1.8(a)(1). Under 37 CFR § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted

on or before the date indicated. The certificate of mailing found on the amendment and the date-stamped itemized postcard receipt establish that the amendment was timely filed.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment is a feeless petition. Therefore, the $110.00 petition fee submitted on May 12, 2003 (certificate of mailing date May 8, 2003) will be credited to petitioner's deposit account no. 10-0750.

The application file will be forwarded to Technology Center 3700's technical support staff for entry of the amendment. Thereafter, the application file will be forwarded to the examiner of record for action in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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BELLINGHAM WA 98226

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Lairson, et al. : DECISION ON PETITION
Application No. 09/829,403 :
Filed: April 9, 2001 :
Atty. Dkt. No.: Q01-1074-US1 :

This decision is in response to the petition under 37 CFR 1.137(b), filed September 1, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned September 30, 2004 for failure to timely submit a proper reply to the final Office action mailed March 29, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. A three month extension of time was timely requested. Notice of Abandonment was mailed March 17, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action mailed May 27, 2004 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2600 for processing of the RCE submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10022

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Shinoki et al	:	
Application No. 09/829,467	:	ON PETITION
Filed: April 9, 2001	:	
Attorney Docket No. JG-SIK-5063/500676.20003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 5, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 7, 2005 is accepted as having been unintentionally delay.

The Change of Address filed September 23, 2005 is noted and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1637.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Chun M. Ng
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1026

DEC 24 2002

In re Application of:	:	
Tzu *et al.*	:	
Application No. 09/829,505	:	DECISION ON REQUEST TO
Filed: April 9, 2001	:	WITHDRAW FROM RECORD
Attorney Docket No. 006033.P054	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 18, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of the others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by James Y. Go on behalf of all attorneys of record and there is at least thirty days remaining between the date of this decision and the expiration date of the maximum time period for response set by the Office action mailed on October 3, 2002. Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to Clement Cheng at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Clement Cheng, Esq.
17220 Newhope Street, #127
Fountain Valley, CA 92708

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INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Vladimir R. PISARSKY	:	
Application No. 09/829,520	:	ON PETITION
Filed: April 9, 2001	:	
Attorney Docket No. US018049	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 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 8, 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 9, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; (3) and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 8, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until

the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The request to change the power of attorney, filed September 23, 2005, has **NOT** been approved because no statement under 37 CFR 3.73(b) has been submitted.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2121 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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G PETER NICHOLS
BRINK HOFER GILSON LIONE
P O BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Patent No. 6,750,163	:	
Wang, et al.	:	DECISION ON REQUEST FOR
Issue Date: June 15, 2004	:	RECONSIDERATION OF
Application No. 09/829,527	:	PATENT TERM ADJUSTMENT
Filed: April 10, 2001	:	UNDER 37 C.F.R.
Attorney Docket No. 659/1326	:	§ 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 21, 2004. Patentees request that the patent term adjustment indicated on the patent be corrected from two hundred twenty-nine (229) days to two hundred ninety-five (295) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**. Patentees are given **thirty (30) days** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On June 15, 2004, the above-identified application matured into U.S. Patent No. 6,750,163. The instant request for reconsideration filed June 21, 2004, was timely filed within 30 days of the date the patent issued. See § 1.705(d). The patent

issued with a patent term adjustment of 229 days. Patentees state that the determination of patent term adjustment of 229 days should have been increased by 66 days (for a total of 295 days of patent term adjustment) for the number of days between "the date of filing and the issue date."

Patentees' argument is not well-taken. As the 66 days of delay overlap with the 229 days of patent term adjustment accorded, this delay does 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 C.F.R. § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

In view thereof, the correct determination of PTA at the time of issuance is two hundred twenty-nine (229) days (including 6 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to Files Repository.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. None

JACK V. SMITH
P.O. BOX 156
Arden NC 28704

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of
Jack V. Smith
Application No. 09/829,563
Filed: April 11, 2001
Title: METHOD FOR ASSAYING BIOLOGICAL AND OTHER CONSTITUENTS USING SYNTHETIC NUCLEOUNITS IN LATERAL FLOW, LIQUID, AND DRY CHEMISTRY TECHNIQUES

DECSION ON PETITION UNDER 37 C.F.R. §§1.137(A)

This is a decision on the petition filed May 4, 2004, pursuant to 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 August 29, 2002, which set a shortened statutory period for reply of three (3) months. On February 5, 2003 a response was received, along with a two-month extension of time (the amendment contained a certificate of mailing dated January 29, 2003). It was determined that the amendment was non-responsive, and on May 2, 2003, the Office mailed a communication which informed the Applicant that he was given one month to submit a responsive amendment. On June 2, 2003 a second amendment was received, and again it was determined that this amendment was non-responsive. On September 23, 2003, the Office mailed

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;
(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) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

a communication which informed the Applicant that he was given one month to submit a responsive amendment. On October 23, 2003 a third amendment was received. On January 14, 2004, the Applicant was sent a communication which stated that the third amendment was non-responsive and appeared to be a non-bonafide response. The communication set forth that the application would go abandoned after the expiration of the time period set forth in the mailing of September 23, 2003. On January 22, 2004, a Request for Continued Examination (RCE) was received, and on February 5, 2004, a communication was mailed to the Applicant which explained that the RCE would not be entered, as it was improperly submitted prior to the closure of prosecution. As such, the application went abandoned on October 24, 2003. A Notice of Abandonment was mailed April 16, 2004.

With the instant petition, Petitioner has supplied the fee associated with the filing of a petition under 37 C.F.R. §1.137(a) and a statement of facts.

Petitioner has further requested that the fee associated with the filing of an RCE be refunded, as well as "the proper documentation to file a formal complaint with regards to this application."

Regarding the fee associated with the filing of an RCE, Petitioner is entitled to have the $385 refunded to him. It is recommended that he submit a request for refund to the Office of Finance[2]. A copy of this decision should accompany any such request.

Regarding the filing of a formal complaint, normally it is recommended that Applicants contact the Supervisory Patent Examiner who manages the Examiner in charge of the application. It is noted that the Petitioner has stated that he has already taken this action.

Regarding the petition under 37 C.F.R. §1.137(a), Petition has met requirement (2) above. Requirement (4) does not apply.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[3]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(a)(1) (i.e., either an amendment or a request for reconsideration which is fully responsive, or the filing of a continuing application). The petition was not accompanied by any of these replies. Although the Petitioner filed an RCE, the RCE was improper has prosecution on the merits had not closed.

Regarding the third requirement above, 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).

---

2 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.

3 See M.P.E.P. 711.03(c).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

35 USC §133 states, "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." (emphasis added)

"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. His interpretation of those provisions is entitled to considerable deference."[4]

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."[5]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business[6]?"

Nonawareness of a PTO rule will not constitute unavoidable delay[7].

The burden of showing the cause of the delay is on the person seeking to revive the application[8].

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

---

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, 1425, 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 Defense 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 Id.

6 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

7 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.

8 Id.

reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[9].

The regulations and portion of the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.2: Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

37 C.F.R. § 1.111: Reply by applicant or patent owner to a non-final Office action.
(a)
(1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment.
(2) A second (or subsequent) supplemental reply will be entered unless disapproved by the Commissioner. A second (or subsequent) supplemental reply may be disapproved if the second (or subsequent) supplemental reply unduly interferes with an Office action being prepared in response to the previous reply. Factors that will be considered in disapproving a second (or subsequent) supplemental reply include:
(i) The state of preparation of an Office action responsive to the previous reply as of the date of receipt (§ 1.6) of the second (or subsequent) supplemental reply by the Office; and
(ii) The nature of any changes to the specification or claims that would result from entry of the second (or subsequent) supplemental reply.
(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.
(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

[46 FR 29182, May 29, 1981; para. (b) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; paras. (a) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

37 C.F.R. § 1.112: Reconsideration before final action.
After reply by applicant or patent owner (§ 1.111 or § 1.945) to a non-final action and any comments by an inter partes reexamination requester (§ 1.947), the application or the patent under reexamination will be reconsidered and again examined. The applicant, or in the case of a reexamination proceeding the patent owner and any third party requester, will be notified if claims are rejected, objections or requirements made, or decisions favorable to patentability are made, in the same manner as after the first examination (§ 1.104). Applicant or patent owner may reply to such Office action in the same manner provided in § 1.111 or § 1.945, with or without amendment, unless

9 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

such Office action indicates that it is made final (§ 1.113) or an appeal (§ 1.191) has been taken (§ 1.116), or in an inter partes reexamination, that it is an action closing prosecution (§ 1.949) or a right of appeal notice (§ 1.953).

[46 FR 29182, May 29, 1981; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001]

37 C.F.R. § 1.114: Request for continued examination.
(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.
(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.
(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or related papers, will not be considered a submission under this section.
(e) The provisions of this section do not apply to:
(1) A provisional application;
(2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;
(3) An international application filed under 35 U.S.C. 363 before June 8, 1995;
(4) An application for a design patent; or
(5) A patent under reexamination.
[Added 65 FR 14865, Mar. 20, 2000, effective May 29, 2000; revised 65 FR 50092, Aug. 16, 2000]

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]

711.03(c) of the MPEP sets forth, in part:

The required reply to a non-final action in a nonprovisional 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 utility or plant application filed before May 29, 2000, or 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.

...

The dismissal or denial of a petition under 37 CFR 1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 CFR 1.137(a) indicates otherwise). In such an instance, a petition under 37 CFR 1.137(b) may be filed accompanied by the fee set forth in 37 CFR 1.17(m), the required reply, 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 any terminal disclaimer required by 37 CFR 1.137(c).

Application of the standard to the current facts and circumstances

Unfortunately, petitions filed under 37 C.F.R. §1.137(a) (where the cause of the abandonment is characterized as "unavoidable") have a very stringent standard associated with them.

With the instant petition, Petitioner has alleged that after having received a non-final Office action and subsequently submitting numerous non-responsive amendments, he was told by a member of the PTO that the application was under final and that either an RCE or a Notice of Appeal would be required to save the application from abandonment.

Petitioner's arguments have been considered, and they have been deemed to be unpersuasive.

It is noted that the oral advice which was purportedly given to Petitioner contradicts that which was set forth in writing by the Examiner, as the Office action of August 29, 2002 sets forth that the rejection was non-final, and each of the mailings which indicated that the subsequent submissions were non-responsive indicated that a responsive amendment is what was required. It does not appear the filing of either an RCE or an Appeal Brief was suggested in writing.

Obviously, the undersigned was not privy to the discussion the Petitioner purportedly had with the Office employee where it was recommended that he undertake this incorrect action. It is unfortunate that pursuant to both 37 C.F.R. §1.2 and In re Sivertz that a delay caused by reliance on oral advice from PTO employees cannot be viewed as unavoidable.

Had Petitioner addressed the merits of the decision of August 29, 2002 and submitted a responsive amendment, as was explicitly set forth in the mailings of May 2, 2003, September 23, 2003, and January 14, 2004, the application would have not gone abandoned. Ignoring the merits of these three mailings does not appear to evince the treatment of this application as one's

most important business. As such, it is difficult to characterize the failure to do the same as unavoidable.

Therefore, it is determined that delay was perhaps unintentional, but certainly not unavoidable.

As such, the petition must be **DISMISSED**.

Alternate venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR §1.137(b). A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by the required reply (already submitted), the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional. A copy of a blank petition form may be found at http://www.uspto.gov/web/forms/sb0064.pdf.

The filing of a petition under 37 CFR §1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR §1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR §1.137(b).

Response

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.137(a) *and/or §1.137(b), if applicable.*" This is not a final agency action within the meaning of 5 U.S.C 704.

The 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 the enclosed 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. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[10], hand-delivery[11], or facsimile[12].

10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

11 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

12 (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.

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.

Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004)

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PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Luis Eduardo Gutierrez-Sheris	:	
Application No. 09/829,614	:	DECISION ON PETITION
Filed: 04/10/2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 25153-004	:	

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED BENEFIT CLAIM UNDER 35 U.S.C. 120" filed on 17 September, 2007, which is treated as a petition under 37 CFR § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed 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. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The rule at 37 CFR § 1.78(a)(3) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. 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 3693 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/829,614	04/10/2001	3693	445	25153-004	30	3

CONFIRMATION NO. 7999

CORRECTED FILING RECEIPT

OC000000026472374

32137
PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Applicant(s)

Luis Eduardo Gutierrez-Sheris, Ridgewood, NJ;

Assignment For Published Patent Application

UniTeller Financial Services, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/635,330 08/09/2000
which claims benefit of 60/174,646 01/05/2000

Foreign Applications

If Required, Foreign Filing License Granted: 07/11/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/829,614

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Money-transfer techniques

Preliminary Class

705

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 20 2004

Knobbe, Martens, Olson, & Bear LLP
1114 Marsh Street
San Luis Obispo, CA 93401

In re Application of	:
Sibley et al.	:
Serial No.: 09/829,631	: PETITION DECISION
Filed: April 10, 2001	:
Attorney Docket No.: NIH047.1 CP1C1	:

Applicants' filed on 3/25/04 a request for review by the Group Director. This is deemed to be a petition filed under 37 CFR 1.181.

BACKGROUND

Applicants' request review of the issue as to whether the instant application is a continuation-in-part or continuation of the parent application.

DISCUSSION

Applicants' request review of the issue whether "by containing the desired set of claims rather than adding the desired set of claims by preliminary amendment, the continuation does not contain new matter and cannot be redesignated as a continuation-in-part". Applicants' statement is true, but only if the desired set of claims do not contain new matter, in regard to the specification as originally filed.

Applicants' assert that MPEP 201.06(c) indicates that the Patent Office strongly recommends that a continuation application contain only the desired set of claims rather than add the desired set of claims by preliminary amendment.

With respect to applicants arguments MPEP 201.06(c) states "When a copy of the oath or declaration from a prior application was filed in a continuation or divisional application, if the examiner determines that new matter is present relative to the prior application, the examiner should notify the applicant in the next Office Action (preferably the first Office Action). The examiner should require: (A) a new oath or declaration along with the surcharge set forth in 37 CFR 1.16(e), and (B) that the application should be redesignated as a continuation-in-part".

A review of the history shows that the examiner in the office action mailed 7/10/02 determined the claims as originally filed contained new matter, and required applicants provide a

supplemental oath and redesignate the application as a continuation-in part. The Office action mailed 7/10/02 further sets forth on the record that originally filed claims 1-16 of the instant application are not the same as those originally filed in the parent application 08/428,242 and the claims would have been considered to constitute new matter.

Accordingly, given the record provides reasons to why the original claims of the instant application would constitute new matter, applicants provide no reasons in the petition to why claims 1-16 originally filed in the instant application do not contain new matter the designation of the application as continuation in part of the parent application is proper.

Applicants further argue the MPEP indicates that the prior set of claims was properly indicated by reference by a statement in the application transmittal letter specifically referring to the prior application and therefore status as a continuation application is proper. However, a review of the file history shows that it is the application as filed, not as later amended, which determines its status as a continuation or continuation-in-part. In this case the claims as originally filed contained new matter and mandated designation as continuation-in-part. See MPEP 206.01 (c) which sets forth that "a continuation or divisional application filed with a newly executed oath or declaration contains subject matter that would have been new matter in the prior application, the application will have to be amended to indicate that it is a continuation-in-part application rather than a continuation or divisional application". What determines the status of the later filed application as a continuation or continuation-in-part is whether the disclosure (i.e., the specification and claims) of the application is the same as the parent application. The mere fact that the later filed application contains the desired set of claims is not determinative of whether the later filed application is a continuation rather than a continuation-in-part.

DECISION

For the reasons set forth above the designation of the application as a continuation-in-part is affirmed and Applicants' petition is **DENIED.**

Should there be any questions with respect to this decision, please contact Anthony C. Caputa by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0829 or by facsimile transmission at 703-872-9306.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent No. 7,061,904	:
Issued: June 13, 2006	: LETTER REGARDING PTA and
Application No. 09/829,654	: NOTICE OF INTENT TO ISSUE
Filed: April 9, 2001	: CERTIFICATE OF CORRECTION
Dkt. No.: 00P7569US01/059001	:

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed August 9, 2006. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Pat. No. 7,061,904 on June 13, 2006. The patent issued with a PTA of 1,212 days. Patentees, however, indicate that the adjustment of 1,212 is longer than appropriate and further advise the Office that the adjustment should be reduced 49 days for applicant's delay in responding to the Notice to File Missing Parts mailed May 23, 2001.

A review of the application history for the instant patent reveals that an adjustment of 1,212 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

As advised by patentees, the adjustment of 1,212 days is properly reduced 49 days in accordance with 37 CFR 1.704(b) in connection with the response to the Notice filed October 10, 2001.

Thus, at the time of issuance, the patent was entitled to an adjustment of 1,163, as advised by patentees.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1,163 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery A Fries
~~Nancy Johnson~~ Senior Legal Advisor
~~Senior Petitions Attorney~~
~~Office of Petitions~~ OFFICE OF PATENT LEGAL ADM.

Enclosure: Draft Certificate of Correction

Day : Friday
Date: 9/29/2006

PALM INTRANET

Time: 08:40:49

PTA Calculations for Application: 09/829654			
Application Filing Date:	04/09/2001	PTO Delay (PTO):	1212
Issue Date of Patent:	06/13/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1163
PTO Delay Adjustment:	-49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		98	
45	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	49		
41.5	05/24/2006	PTA 36 MONTHS			
41	06/13/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
40	05/19/2006	EXPORT TO FINAL DATA CAPTURE			
39	05/18/2006	DISPATCH TO FDC			
38	05/18/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
36	04/26/2006	FINISHED INITIAL DATA CAPTURE			
35	04/10/2006	ISSUE FEE PAYMENT VERIFIED			
34	04/10/2006	ISSUE FEE PAYMENT RECEIVED			
33	03/29/2006	WORKFLOW - QUERY REQUEST - FINISH			
32	03/21/2006	TC RETURN TO PUBS			
31	03/14/2006	PUBS CASE REMAND TO TC			
30	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	03/14/2006	WORKFLOW - QUERY REQUEST - BEGIN			
28	02/14/2006	EXPORT TO INITIAL DATA CAPTURE			
27	02/09/2006	MAIL NOTICE OF ALLOWANCE			
26	02/09/2006	MAIL FORMAL DRAWINGS REQUIRED			
25	02/09/2006	MAIL EXAMINER'S AMENDMENT			
24	02/07/2006	ISSUE REVISION COMPLETED			
23	02/07/2006	FORMAL DRAWINGS REQUIRED			
22	02/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
21	02/06/2006	EXAMINER'S AMENDMENT COMMUNICATION			
20	02/06/2006	NOTICE OF ALLOWABILITY			

19	12/26/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	01/06/2006	DATE FORWARDED TO EXAMINER			
17	01/03/2006	RESPONSE AFTER NON-FINAL ACTION			
16	10/03/2005	MAIL NON-FINAL REJECTION	1212		-1
15	10/03/2005	NON-FINAL REJECTION			
14	09/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	12/26/2001	REFERENCE CAPTURE ON IDS			
11	03/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	12/26/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	10/11/2001	NEW OR ADDITIONAL DRAWING FILED			
7	10/11/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
6	11/15/2001	APPLICATION DISPATCHED FROM OIPE			
5	11/08/2001	APPLICATION IS NOW COMPLETE			
4	05/23/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/15/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/26/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/09/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,061,904 B2
DATED	:	June 13, 2006
INVENTOR(S)	:	Preiss, 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 1212 days

Delete the phrase "by 1212 days" and insert – by 1163 days--

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Paper No. 10

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of
Jeff Limon
Application No. 09/829,692
Filed: April 10, 2001
Attorney Docket No. 10008416-1

ON PETITION

This is a decision on the petition, filed December 12, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2674 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
HEWLETT-PACKARD COMPANY
LEGAL DEPARTMENT
1000 NE CIRCLE BLVD.
CORVALLIS, OR 97330

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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FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of
David L. Anglin
Application No.: 09/829,709
Filed: April 10, 2001
Attorney Docket No: 08935-240001 / M-4931A

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed April 15, 2005.

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. 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.

A final Office action was mailed in the above-cited application on July 14, 2004, allowing for an extendable statutory period for reply of three months from its mailing date. An amendment was filed on November 17, 2004, along with a request for an extension of time within the first month. The examiner assigned to the application issued an Advisory Action on December 21, 2004, noting that the responses did not place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on November 15, 2004. A Notice of Abandonment was mailed on April 5, 2005.

The requirements for a successful petition filed under 37 CFR 1.137(b) are:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m) which is currently $750.00 (small entity);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition lacks item (1) above.

As to item (1), the petition was not accompanied by a proper response to the final Office action. Although petitioner indicates that a Request for Continued Examination was filed with the petition, a review of the record did not reveal such a filing. Any renewed petition filed must be accompanied by a proper reply to the final Office action.

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: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of

David L. Anglin

Application No. 09/829,709

Filed: April 10, 2001

Attorney Docket No. 08935-240001/M-4931A

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 27, 2005, to revive the above-identified application.

The renewed petition is **GRANTED**.

A final Office action was mailed in the above-cited application on July 14, 2004, allowing for an extendable statutory period for reply of three months from its mailing date. An amendment was filed on November 17, 2004, along with a request for an extension of time within the first month. The examiner assigned to the application issued an Advisory Action on December 21, 2004, noting that the responses did not place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on November 15, 2004. A Notice of Abandonment was mailed on April 5, 2005. A petition under 37 CFR 1.137(b) was filed April 15, 2005, a dismissed by a decision May 26, 2005.

The Request for Continued Examination filed July 27, 2005, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1745 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

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

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Glenn R. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7596753	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/829,721	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/10/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2018** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Gable & Gotwals
Attn: Paul H. Johnson
100 W. Fifth Street
10th Floor
Tulsa, OK 74103

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FEB 1 0 2004

OFFICE OF PETITIONS

In re Application of
David O. Chenault
Application No. 09/829,760
Filed: April 10, 2001
Attorney Docket No. 005788.00002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 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 June 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 3, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $55 for the unintentional petition to revive fee, and $160 for claim fees. However, effective October 1, 2003, the small entity unintentional petition to revive fee required is $665. Therefore, per authorization given in the instant petition $610 (665-55) has been charged to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3700 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 03-05

Paper No: 9

ROBERT J. SCHAAP
SUITE 188
21241 VENTURA BOULEVARD
WOODLAND HILLS CA 91364

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of		
Last	:	
Application No. 09/829,802	:	DECISION
Filing Date: 10 April, 2001	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 24 March, 2003, resubmitted on 1 March, 2005, and supplemented on 28 March, 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:

- following an 11 January, 2002, Restriction requirement and a 22 March, 2002, Election (with request and fee for extension of time) Petitioner failed to reply timely and properly to a "Notice of Nonresponsive Amendment" mailed on 7 May, 2002, with reply due absent extension of time on or before 7 June, 2002;

- the application went abandoned after midnight 7 June, 2002;

- Petitioner first filed the instant petition (with fee, supporting documents and a clean and marked-up version of the amendment as the reply) under 37 C.F.R. §1.137(a) on 24

March, 2003, however, it appears that, while the petition and supporting documents were matched with the file, the file was not forwarded to the Office of Petitions for consideration until this writing;

- the Office did not mail the Notice of Abandonment until 9 December, 2004;
- on 1 March, 2005, Petitioner resubmitted the instant petition, with fee, and a clean and marked-up version of the amendment as the reply, and on 28 March, 2005, Petitioner supplemented his petition with copies of his office records (e.g., docket sheets) and declarations.

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

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, 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]

Petitioner evidences non-receipt of the Notice of Nonresponsive Amendment.

In matters such as these in which Petitioner observes that the Office has not responded to Petitioner's filing(s), Petitioner may find it of particular value (to demonstrate/evidence at a later date Petitioner's diligence in attention to such matters) to calendar a Status Inquiry at six- (6-) month intervals.

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 9 December, 2004, Notice of Abandonment hereby is vacated; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**, and the petition fee ($55.00) is waived and it appears none was charged.

The instant application is forwarded to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

In re Application of	:	
, et al.	:	**DECISION ON PETITION**
Application No. 09/829903	:	
Filed: April 11, 2001	:	
Attorney Docket No. 50277-1004	:	

This is a decision on the Petition To Withdraw Holding of Abandonment (CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on September 28, 2007.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed June 1, 2007, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed September 24, 2007.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on August 27, 2007, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees. As a result thereof, the patent application became abandoned midnight September 24, 2007.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004.

Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

Add that the applicant will be sent to the Office of Petitions to consider the 1.137 petition.

Further correspondence with respect to filing the petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 ext.164.

Kendrick Spruill
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of :
Molesky :
Application No. 09/829,903 : DECISION ON PETITION
Filed: April 11, 2001 :
Attorney Docket No. 50277-1004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 2, 2007 for failure to timely pay the issue as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2007. The Notice of Allowance and Fee(s) Due set a three month statutory period of time for reply. Notice of Abandonment was mailed September 24, 2007

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the reply in the form of issue fee payment, the required petition fee; and an adequate statement of unintentional delay.

Petitioner is advised that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

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JUL 27 2005

OFFICE OF PETITIONS

In re Patent of :
Halazonetis et al. :
Patent No. 6,784,157 :
Issued: August 31, 2004 : ON PETITION
For: PEPTIDES AND PEPTIDOMIMETICS :
WITH STRUCTURAL SIMILARITY TO :
HUMAN P53-THAT ACTIVATE P53 :
FUNCTION :

This is a decision on the Petition, filed May 12, 2005, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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JUL 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Bruno Bessette et al	:	
Application No. 09/830,114	:	NOTICE
Filed: June 20, 2001	:	
Attorney Docket No. 4082-0129P	:	

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 2682.

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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MAR 16 2004

J. Rodman Steele, Jr.
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188

In re Application of	:	
Beaudoin et al	:	
Serial No. 09/830,146	:	DECISION ON PETITION
Filing Date: July 25, 2001	:	
Attorney Docket No.: 789-47	:	

This is in response to applicant's "Petition for Acceptance of Date and Mailing of Response to Office Action under 37 CFR 1.8 and/or For Revival of Application for Paten Abandoned Unintentionally under 37 CFR 1.137(b)" filed October 23, 2003. The delay is regretted.

On February 25, 2003, an Office action was mailed. On August 25, 2003, a response with a request for a retroactive extension of time of three months was filed. However, the response was inadvertently addressed to zip code 22313-459, but was clearly addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA.

Applicant's statement and evidence show that a response was filed on August 25, 2003. An extension fee was charged on September 4, 2003 indicating that the Office had received the response. The response is considered to be timely filed. Accordingly, the petition is granted. The instant application has been returned t pending status and will be forwarded to examiner for consideration of the response.

Petition Granted.

Deborah Tsang for
Bruce Kisliuk
Director, TC1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 16

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JUN 2 4 2003

OFFICE OF PETITIONS

William M. Blackstone
Patent Department/Invert Inc.
405 State Street
Mllsboro, DE 19966

In re Application of
Timmers, et al.
Application No. 09/830,227
Filed: June 11, 2001
Attorney Docket No.: 0/98411 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 27, 2003, to revive the above-identified application.

A decision, *sua sponte,* withdrawing the holding of abandonment of the above-identified application was mailed June 10, 2003. The instant petition is accordingly **DISMISSED AS MOOT**.

No petition fee is due in connection with this matter. Petitioner may request a refund of the previously submitted $110.00 petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Technology Center 3200 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

JUL 0 9 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

HUMAN GENOME SCIENCES
9410 KEY WEST AVENUE
ROCKVILLE, MD 20850

In re Application of	:
CHOI et al.	:
Application No.: 09/830,230	:
PCT No.: PCT/US98/12718	:
Int. Filing Date: 18 June 1998	: DECISION ON PETITION
Priority Date: 20 June 1997	:
Attorney Docket No.: PB481US	:
For: LIME DISEASE VACCINES	:

The petition to revive under 37 CFR 1.137(b) filed 24 April 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of $1260 has been paid and thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors is required. The surcharge for filing the oath or declaration after the thirty month period has been paid.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 12, 2007

TO SPE OF : ART UNIT 3732 Cris Rodriguez

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/830,264 Patent No.: 6845175B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. _____

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: _____

Cris L Rodriguez — **SPE**
3732 — **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. 6760014
Issue Date: July 6,2004
Application No. 09830272
Filed: April 25,2001
Attorney Docket No. CAS106NP

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,760,014	2004-07-06	09/830,272	2001-04-25	CAS 106NP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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 M. Rabin/	Date (YYYY-MM-DD)	2008-12-02
Name	Steven M. Rabin	Registration Number	29102

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

AUG 2 7 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Geoffrey L. McCabe
6124 Glen Tower
Hollywood, CA 90068

In re Application of McCABE Application No.: 09/830,279 PCT No.: PCT/US98/20376 Int. Filing Date: 29 September 1998 Priority Date: None Attorney Docket No.: None For: TUNING APPARATUS FOR STRINGED INSTRUMENT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to the "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" submitted by applicant on 23 April 2001.

BACKGROUND

On 29 September 1998, applicant filed international application PCT/US98/20376. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 April 2000, which was 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 29 March 2001.

On 23 April 2001, applicant 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, an assertion of small entity status, and a declaration of the inventor.

On 02 April 2001, applicant also filed the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;

(2) The petition fee;
(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.

As to item (1), applicant submitted the basic national fee for a small entity on 23 April 2001.

As to item (2), applicant submitted the petition fee of $620.00 for a small entity on 23 April 2001.

With regard to item (3), petitioner has provided the required statement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration filed 23 April 2001 complies with 37 CFR 1.497(a)-(b). However, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has not been paid.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring the surcharge under 37 CFR 1.492(e) for submitting the declaration later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 12

Geoffrey McCabe
6124 Glen Tower Walk
Hollywood, CA 90068

FEB 11 2003

In re Application of Geoffrey McCabe Application No.: 09/830,279 Filing Date: October 23, 2001 For: TUNING APPARATUS FOR STRINGED INSTRUMENT	: : : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the letter filed via facsimile transmission on November 5, 2002 requesting that the above-noted application be revived. It is being treated as a petition to withdraw the holding of abandonment. There is no fee for this petition. The petition was supplemented with papers filed via facsimile transmission on February 3, 2003.

The petition is **GRANTED**.

BACKGROUND

This application is a national stage entry in the United States of PCT/US98/20376. On April 23, 2001, applicant filed, *inter alia*, a "TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371" (hereinafter "transmittal") and a "DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)" (hereinafter "declaration"). The "transmittal" requested that all correspondence be sent to Geoffrey L. McCabe at a Hollywood, California address (hereinafter "California address"). The "declaration" requested that all correspondence be directed to Dann, Dorfman, Herrell and Skillman, P.C. at a Philadelphia, Pennsylvania address (hereinafter "Pennsylvania address").

On May 3, 2001, just after the present application was initially submitted, the correspondence address was set to the "California address." On December 6, 2001, after all the 35 U.S.C. 371 requirements were met, the correspondence address was changed to the "Pennsylvania address."

On August 29, 2001, a "Notification of Missing Requirements . . ." was mailed to the "California address." A response to the "Notification of Missing Requirements . . ." was received at the PTO on October 23, 2001. On March 28, 2002, an Office action was mailed to the "Pennsylvania address." After no response was received to the Office action, a Notice of Abandonment was mailed to the "Pennsylvania address" on October 1, 2002. The Notice of Abandonment indicated that the application was abandoned in view of applicant's failure to timely file a proper reply to the Office action mailed on March 28, 2002.

REGULATIONS

The Manual Of Patent Examining Procedure (MPEP) section 403 states:

> Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration.

OPINION

In the instant application, after the decision was made to use the "California address" as the correspondence address, there was no reason for changing the correspondence address to the "Pennsylvania address." On the contrary, after a response was received to the "Notification of Missing Requirements . . ." sent to the "California address," it should have been clear that the "California address" was a valid correspondence address and should have remained the correspondence address.

CONCLUSION

In view of the above and the statements given by applicant in the letter filed via facsimile transmission on February 3, 2003, the "Notice of Abandonment" mailed on October 1, 2002 is vacated. The Office action dated March 28, 2002 will be remailed to the "California address." A new shortened statutory period for response to the remailed Office action will be set to expire three months from the date of remailing.

On November 5, 2002, applicant filed, together with the above-noted petition, a "Revocation of Power of Attorney . . ." which included a request to change the correspondence address to the "California address." Although the application number listed on the revocation was 07/607,458, someone changed it to 09/830,279. On November 7, 2002, the correspondence address was changed back to the "California address." The copies of the "Change of Correspondence Address" and the "Petition for Revival . . ." filed with the papers of February 3, 2003 have been put into the application file but have been indicated to be moot in light of the papers filed on November 5, 2002 and this decision.

A copy of the "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" which was sent to the "Philadelphia address" on December 6, 2001 is being sent along with this decision since applicant apparently has never received the notice.

Any inquiry concerning this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

AUG 0 2 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

ELI LILLY AND COMPANY
PATENT DIVISION/MJS
LILLY CORPORATE CENTER
INDIANAPOLIS, IN 46285

In re Application of
YAKUBU-MADUS et al.
Application No.: 09/830,323
PCT No.: PCT/US00/15548
Int. Filing Date: 06 June 2000
Priority Date: 21 June 1999
Attorney Docket No.: X-11921
For: SYNERGISTIC USE OF THIAZOLIDINEDIONES WITH GLUCAGON-LIKE PEPTIDE-1 AND AGONISTS THEREOF TO TREAT METABOLIC INSTABILITY ASSOCIATED WITH NON-INSULIN DEPENDENT DISEASES

: DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 24 April 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of $1240 has been paid and thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

A review of the declaration reveals that it is in compliance with 37 CFR 1.497, and therefore is acceptable for entry into the national stage in the United States, however, it cannot be accepted for further processing. The third named inventor is listed as Louis Vignati on the international application publication; the third inventor on the declaration is listed as Vignati Louis. The inconsistency in the name of the third inventor must be corrected with a new declaration.

Since the declaration contains informalities that prevent further processing of the application, applicants are given ONE (01) MONTH time limit from the mail date of this

decision to provide a declaration of the inventors in compliance with 37 CFR 1.63. EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER 37 CFR 1.136(a). Failure to file an acceptable declaration within the time limit set forth will result in abandonment of the international application as to the national stage in the United States.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being retained in PCT Legal Office to await applicants' response.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-15-06

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/830 338 Patent No.: 6882 322

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.

Check claims

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Young

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SHANON FOLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

Art Unit

07 JUN 2006

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
Takahashi	:	
Application No.: 09/830,356	:	
PCT No.: PCT/JP00/05955	:	
Int. Filing Date: 01 September 2000	:	DECISION
Priority Date: 09 September 1999	:	
Attorney Docket No.: 109380	:	
For: Image Generating System And Program	:	

This is a decision on the correspondence filed on 16 May 2005, which is being treated as a petition to accord a certain date of completion of the requirements of 35 U.S.C. 371(c)(1), (2) and (4).

DISCUSSION

This international application was filed on 01 September 2000 and claimed a priority date of 09 September 1999. The United States was designated. The International Bureau communicated a copy of the published international application to the USPTO. Consequently, the twenty month period for payment of the basic national fee in the United States expired as of midnight on 09 May 2001. On 25 April 2001, applicant filed *inter alia* the basic national fee.

On 22 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

On 05 June 2001, applicant filed *inter alia* an executed declaration and the surcharge.

On 20 June 2001, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was 05 June 2001.

On 25 July 2001, counsel filed a "Request For Correction Of PALM Records" requesting *inter alia* correction of the indication of a "filing date" of 05 June 2001.

On 08 August 2001, a Response To Request Corrected Filing Receipt was mailed to counsel, stating that the requested correction to the "filing date" was inappropriate because "the date on the Express Mail label is the date given on the Filing Receipt."

DISCUSSION

The instant correspondence requests "correction of PALM records" and refers to an attached copy of a "corrected filing receipt still containing an error." Counsel indicates that the "filing date" of "06/05/2001," in view of the alleged filing of a response on 04 June 2001. The instant correspondence includes a photocopy of a "PTO Receipt For Filing Papers" itemizing a "Resp to NOMR, ck #119597, $130, NOMR, exec Decl, Assign Tran, ck# 119596, $40, exec

Assgn." Counsel refers to this postcard as establishing the date of receipt of the correspondence at issue. MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the itemized correspondence including *inter alia* the declaration and the $130.00 surcharge are regarded as having been filed on 04 June 2001. As such, the 35 U.S.C. 371(c)(1), (2) and (4) date appearing on the 20 June 2001 Notice of Acceptance is in error, and said Notice of Acceptance is hereby **VACATED.**

CONCLUSION

The petition is **GRANTED** as described above.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) reflecting **04 June 2001** as the date of this application under 35 U.S.C. 371(c)(1), (2) and (4). A corrected Filing Receipt reflecting a "filing date" (date under 35 U.S.C. 371(c)(1), (2) and (4)) of **04 June 2001** will also be prepared and mailed.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

OIPE JC25 MAY 16 2005 PATENT & TRADEMARK OFFICE

IFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Kazuya TAKAHASHI

Attn: OIPE

Batch/Confirmation No. 4958

Allowed: April 22, 2005

Application No.: 09/830,356

Docket No.: 109380

Filed: June 4, 2001

For: IMAGE GENERATING SYSTEM AND PROGRAM

SECOND REQUEST FOR CORRECTION OF PALM RECORDS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is a photocopy of the corrected filing receipt still containing an error. The error has been corrected in red. The error is being brought to the attention of the Patent and Trademark Office so that it may correct its records. The date is based on filing the Declaration with a Response to Notification of Missing Requirements filed June 4, 2001. A copy of the date stamped receipt is attached.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Robert A. Miller
Registration No. 32,771

JAO:RAM/tls

Attachments:
Filing Receipt
Date Stamped Receipt

Date: May 16, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

MAY 16 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/830,356	06/05/2001	2185	990	109380	18	16	2

06/04/2001

CONFIRMATION NO. 4958

CORRECTED FILING RECEIPT

OC000000006400745

Oliff & Berridge
P O Box 19928
Alexandria, VA 22320

Date Mailed: 08/08/2001

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 rec ived 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)

Kazuya Takahashi, Yokohama-shi, JAPAN;

Assignment For Published Patent Application

NAMCO LTD.;

D mestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/JP00/05955 09/01/2000

F reign Applications

JAPAN 11-256199 09/09/1999

If Required, Foreign Filing License Granted 08/08/2001

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

Title

Image generating system and program

Preliminary Class

MAY 18 2005 JC23 PATENT & TRADEMARK OFFICE

PTO RECEIPT FOR FILING OF PAPERS

The following papers have been filed:

Resp to NOMR, ck #119597, $130, NOMR, exec Decl, Assign Tran, ck #119596, $40, exec Assgn.

Name of Applicant: Kazuya TAKAHASHI

Serial No.: 09/830,356

Atty. File No.: 109380

Title (New Cases):

Sender's Initials: JAO/kaf 286/4

OIPE JC131 JUN 04 2001 PATENT & TRADEMARK OFFICE

PATENT OFFICE DATE STAMP

14

COPY TO BE STAMPED BY PATENT OFFICE AND RETURNED BY MESSENGER

MAY 16 2005

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
09/830,356	06/05/2001	2185	990	109380	18	16	2

06/04/2001

CONFIRMATION NO. 4958

CORRECTED FILING RECEIPT

OC000000008400745

Oliff & Berridge
P O Box 19928
Alexandria, VA 22320

Date Mailed: 08/08/2001

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 err r 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)

Kazuya Takahashi, Yokohama-shi, JAPAN;

Assignment For Published Patent Application

NAMCO LTD.;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/JP00/05955 09/01/2000

Foreign Applications

JAPAN 11-256199 09/09/1999

If Required, Foreign Filing License Granted 08/08/2001

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

Title

Image generating system and program

Preliminary Class

OIPE JC23
MAY 16 2005
PATENT & TRADEMARK OFFICE

IFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Kazuya TAKAHASHI

Attn: OIPE

Batch/Confirmation No. 4958

Allowed: April 22, 2005

Application No.: 09/830,356

Docket No.: 109380

Filed: June 4, 2001

For: IMAGE GENERATING SYSTEM AND PROGRAM

SECOND REQUEST FOR CORRECTION OF PALM RECORDS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is a photocopy of the corrected filing receipt still containing an error. The error has been corrected in red. The error is being brought to the attention of the Patent and Trademark Office so that it may correct its records. The date is based on filing the Declaration with a Response to Notification of Missing Requirements filed June 4, 2001. A copy of the date stamped receipt is attached.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Robert A. Miller
Registration No. 32,771

JAO:RAM/tls

Attachments:
Filing Receipt
Date Stamped Receipt

Date: May 16, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee du to our Deposit Account No. 15-0461

MAY 18 2005 JC22 PATENT & TRADEMARK OFFICE

PTO RECEIPT FOR FILING OF PAPERS

The following papers have been filed:

Resp to NOMR, ck #119597, $130, NOMR, exec Decl, Assign Tran, ck #119596, $40, exec Assgn.

Name of Applicant: Kazuya TAKAHASHI

Serial No.: 09/830,356

Atty. File No.: 109380

Title (New Cases):

Sender's Initials: JAO/kaf 286/4

OIPE JC131 JUN 04 2001 PATENT & TRADEMARK OFFICE

PATENT OFFICE DATE STAMP

14

COPY TO BE STAMPED BY PATENT OFFICE AND RETURNED BY MESSENGER

19 JUN 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Frishauf, Holtz, Goodman, Langer & Chick, PC
767 Third Avenue
25th Floor
New York, NY 10017-2023

In re Application of GERBAULT	:	
U.S. Application No.: 09/830,378	:	
Int. Application No.: PCT/FR99/02639	:	COMMUNICATION
Int. Filing Date: 28 October 1999	:	
Priority Date: 29 October 1998	:	
Attorney Docket No.: 01245/TL	:	
For: DEVICE AND METHOD FOR MAKING	:	
AN INTEGRATED CIRCUIT SECURE	:	

This is in response to applicant's "Second Response to Notification of Missing Requirements" filed 29 May 2002 including a declaration signed by the inventor Eric Gerbault.

The 29 May 2002 response is a proper reply to the decision mailed 03 January 2002.

The application has an International Filing Date of 28 October 1999 and a date under 35 U.S.C. 371 of 29 May 2002.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this letter.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

JAN 03 2002

Frishauf, Holtz, Goodman, Langer & Chick, PC
767 Third Avenue
25th Floor
New York, NY 10017-2023

In re Application of GERBAULT	:	
U.S. Application No.: 09/830,378	:	
Int. Application No.: PCT/FR99/02639	:	DECISION
Int. Filing Date: 28 October 1999	:	
Priority Date: 29 October 1998	:	
Attorney Docket No.: 01245/TL	:	
For: DEVICE AND METHOD FOR MAKING	:	
AN INTEGRATED CIRCUIT SECURE	:	

This is in response to petitioner's "Response to Notification of Missing Requirements and Petition to Proceed Under 37 CFR 1.47(b)" filed 07 November 2001.

BACKGROUND

On 28 October 1999, applicant filed international application PCT/FR99/02639, which claimed priority of an earlier France application filed 29 October 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 11 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 April 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 30 April 2001 (29 April 2001 was a Sunday).

On 25 April 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed along with a surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty (30) months from the priority date.

On 07 November 2001, petitioner filed the present petition under 37 CFR 1.47(b), requesting that the application be accepted for U.S. national stage processing without the signature of the inventor Eric Gerbault.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, petitioner has not established that a bona fide attempt was made to present a complete copy of the application papers to the nonsigning inventor Gerbault for signature. Specifically, although the petition states that a letter containing declaration and assignment forms was sent to the nonsigning inventor Gerbault on 28 August 2001 and signed for

by Gerbault upon receipt (see affidavit of Sophie Diatta and copy of delivery confirmation receipt), petitioner has not shown that the specification, claims, and drawings were ever presented to Gerbault. Furthermore, English language translations of the 28 August 2001 letter, label, and delivery confirmation receipt have not been provided. Moreover, the 28 August 2001 letter apparently does not specify a deadline by which Gerbault is required to respond. Thus, it would not be reasonable to conclude at the present time that Gerbault refuses to sign the application papers.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor(s) has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the USPTO, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, petitioner has submitted a document signed by Gerbault which acknowledges the employer's classification of the invention as belonging to Schlumberger Industries S.A. However, this document is neither an executed assignment nor a written agreement to assign the invention. At most, the document serves as evidence that the terms of an agreement to assign the invention have been met, but a copy of such an agreement (e.g. an employment contract) has not been provided. Absent a written agreement to assign the invention along with a statement of facts by a person with firsthand knowledge of the terms of such an agreement being satisfied, petitioner must supply a legal memorandum to the effect that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to petitioner. The memorandum should be prepared and signed by an attorney familiar with the law of the jurisdiction involved. Such a memorandum must be accompanied by a statement of facts which supports the conclusion of the memorandum and is signed by a person with firsthand knowledge of such facts. See MPEP 409.03(f).

With regard to item (6) above, petitioner has made a statement that filing of the present application is necessary to preserve petitioner's priority rights.

CONCLUSION

Because petitioner has failed to satisfy items (2) and (5) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available pursuant to 37 CFR 1.136. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04042006

DATE : 03/21/06

TO SPE OF : ART UNIT **2877**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/830393**___ Patent No.: **6885442**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Corrections approved.

_____ **SPE**

2877 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/08/06

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/830433** Patent No.: **6835384**

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**.

[signature]

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: Foreign priority data was 10/30/1998.

[signature] — **SPE**

1645 — **Art Unit**

Customized PTO/SB/44 (05-03)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,835,384 B1

DATED : 28 December 2004

INVENTOR(S) : AUJAME et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(30) Foreign Application Priority Data

Oct. 30, 1998 (FR) .....98 13693 OK.

MAILING ADDRESS OF SENDER: **STITES & HARBISON PLLC**
Transpotomac Plaza
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314

PATENT NO. 6,835,384

No. of additional copies

⇨

FEB 2 5 2005

214LT:5381:10621:1:ALEXANDRIA

09/830,433

OIPE JC11 FEB 16 2005 PATENT & TRADEMARK OFFICE

PATENT

REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION FOR PATENT		
	Patent #	6,835,384 B1
	Issue Date	28 December 2004
	First Inventor	AUJAME et al.
	Docket #	P07180US00/BAS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
FEB 23 2005
of Correction

S I R:

Pursuant to 35 U.S.C. 254 and 37 C.F.R. 1.322, it is hereby requested that a Certificate of Correction be issued for the above-identified patent without charge, as the mistake occurred through the fault of the Patent Office. The mistake was the filing date of the French Priority document. The correct date is October 30, **1998** not October 30, 1999 as it appears on the Letters Patent. The correction requested is shown on the attached CERTIFICATE OF CORRECTION (form 1050).

That the mistake (omission) was the fault of the Patent Office is clearly shown in the record, most notably by the Official Filing Receipt .

Issuance of the attached Certificate of Correction without charge is therefore requested.

Respectfully submitted,

Date: 16 February 2005

By: B. Aaron Schulman
Registration No.: 31,877

STITES & HARBISON PLC • 1199 North Fairfax St. • Suite 900 • Alexandria, VA 22314
TEL: 703-739-4900 • FAX: 703-739-9577 • EMAIL: iplaw@larsontaylor.com • CUSTOMER NO. 000881

214LT:5381:10623:1:ALEXANDRIA

FEB 25 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper #8

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JUN 07 2006

OFFICE OF PETITIONS

Roylance Abrams Berdo & Goodman
1300 19th Street N.W., Suite 600
Washington DC 20036-2680

In re Application of :
Duffett et al. :
Application No. 09/830,447 :
Filed: April 27, 2001 :
Attorney Docket No. 41253 :

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed March 29, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed November 6, 2003. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on February 7, 2004. A Notice of Abandonment was mailed on July 27, 2004.

Petitioner asserts that the non-final Office Action mailed on November 6, 2003 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. It appears the correspondence address was taken from a prior declaration. However, pursuant to MPEP 601.03 :

> Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney.

A review of the record shows that the address where petitioner receives mail is contained on the application transmittal form. Accordingly, the non-final Office Action was mailed to the incorrect address.

This application is being forwarded to Art Unit 2683 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

24 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	DECISION
ALLEGRETTI et al.	:	
Application No.: 09/830,449	:	
PCT No.: PCT/EP99/07887	:	
Int. Filing Date: 18 October 1999	:	
Priority Date: 30 October 1998	:	
Attorney Docket No.: 0471-0260P	:	
For: PROCESS FOR THE PREPARATION OF	:	
ALPHA ARYLALKANOIC ACIDS	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 08 May 2002.

BACKGROUND

On 18 October 1999, applicants filed international application PCT/EP99/07887, which claimed a priority date of 30 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 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 30 April 2001.

On 27 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and the surcharge under 37 CFR 1.492(e).

On 29 May 2001, a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371" (Form PCT/DO/EO/905) was mailed to applicants requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b). A two month extendable period for reply was set therein.

On 15 October 2001, applicants submitted a "PETITION UNDER 37 C.F.R. § 1.47(a)". The submission was accompanied by: a declaration of inventors; a petition under 37 CFR 1.47(a) including a declaration of facts by Marcello Allegreti, Maria Candida Cesta, and Marco Mantovanini; and a petition/fee for a three month extension of time.

On 08 March 2002, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided. It was also noted that the declaration of inventors filed 15 October 2001 did not comply with 37 CFR 1.497(a)-(b) because it was not clear what application was being executed. The declaration filed 15 October 2001 appeared to attempt to execute two different applications: United States Application Number 09/830,449 as amended on 27 April 2001 and PCT international application PCT/EP99/7887. It was noted that these applications are not identical because amendments made on 27 April 2001 are not part of the international application. Accordingly, it was indicated that a new oath(s) or declaration(s) in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 May 2002, applicants filed the instant submission which was accompanied by a declaration of inventors signed by all of the inventors.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the renewed petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of inventors filed 08 May 2002 is in compliance with 37 CFR 1.497(a)-(b). Although the declaration again executes United States Application Number 09/830,449 as amended on 27 April 2001 and PCT international application PCT/EP99/7887, the preliminary amendment filed 27 April 2001 merely indicates that the above-identified application is the national stage of international application PCT/EP99/07887.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

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 **08 May 2002**.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

MAR 0 8 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of ALLEGRETTI et al. Application No.: 09/830,449 PCT No.: PCT/EP99/07887 Int. Filing Date: 18 October 1999 Priority Date: 30 October 1998 Attorney Docket No.: 0471-0260P For: PROCESS FOR THE PREPARATION OF ALPHA ARYLALKANOIC ACIDS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "PETITION UNDER 37 C.F.R. § 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 15 October 2001.

BACKGROUND

On 18 October 1999, applicants filed international application PCT/EP99/07887, which claimed a priority date of 30 October 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 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 30 April 2001.

On 27 April 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and the surcharge under 37 CFR 1.492(e).

On 29 May 2001, a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371" (Form PCT/DO/EO/905) was mailed to applicants requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b). A two month extendable period for reply was set therein.

On 15 October 2001, applicants submitted the instant "PETITION UNDER 37 C.F.R. § 1.47(a)". The submission was accompanied by: a declaration of inventors; a petition under 37 CFR 1.47(a) including a declaration of facts by Marcello Allegreti, Maria Candida Cesta, and Marco Mantovanini; and a petition/fee for a three month extension of time.

DISCUSSION

37 CFR 1.497(a)-(b)

It is noted that the declaration of inventors accompanying the petition under 37 CFR 1.47(a) filed 15 October 2001 does not comply with 37 CFR 1.497(a)-(b). The declaration is defective because it is not clear what application is being executed. The declaration appears to attempt to execute two different applications: United States Application Number 09/830,449 as amended on 27 April 2001 and PCT international application PCT/EP99/7887. These applications are not identical; amendments made on 27 April 2001 are not part of the international application. A declaration of inventors submitted in an application filed under 35 U.S.C. 371 should not incorporate amendments which were not made during the international phase since such amendments are not part of the international application. Also, each executed declaration must identify each inventor and the citizenship of each inventor. The declaration accompanying the petition under 37 CFR 1.47(a) filed 15 October 2001 fails to identify the citizenship of Luca Nicolini. Consequently, a new oath(s) or declaration(s) in compliance with 37 CFR 1.497(a)-(b) is required.

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to (1), the fee of $130.00 has been paid.

As to (3), a statement of the last known address of Luca Nicolini has been provided.

As to (2), it is noted that applicants fail to show or provide proof that a copy of the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventor. The copies of the letters mailed to the non-signing joint inventor requesting his signature suggest that only an assignment document and power of attorney were sent.

Moreover, it is not clear whether it is being alleged that the nonsigning inventor refuses to execute the application or that he cannot be reached after diligent effort. Note that it is not clear that any of the mailings were received by the inventor. A copy of "the registered mail receipts" are provided but it is not clear what these receipts are intended to show. It is not clear if they are intended to show that the letters were received by the inventor, were returned as undeliverable, or the letters were simple deposited with the postal service. Also, it is noted that no dates appear on

these receipts. Finally, it is noted that a translation of the receipts has not been provided. Accordingly, it is not clear if the mailings were undelivered or lost, if the inventor is no longer at this address and his whereabouts are unknown, or if he simply received the mailings and did not respond. If the mailings were received and the inventor did not respond, then a refusal to execute the application would likely need to be established. See MPEP § 409.03(d). If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as certified mail return receipt that support a finding that the nonsigning inventors could not be found or reached should be made part of the affidavit or declaration. Also, if it is being alleged that the nonsigning inventor cannot be found or reached, efforts made to locate him, such as finding a forwarding address or telephone number, should be discussed in the next petition.

Additionally, regarding the declaration of facts of Marcello Allegreti, Maria Candida Cesta, and Marco Mantovanini, it is noted that the "statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted." MPEP § 409.03(d). Marcello Allegreti, Maria Candida Cesta, and Marco Mantovanini do not appear to have firsthand knowledge of the facts recited in the declaration.

As to (4), the declaration of inventors is not sufficient for the reasons set forth above.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

Applicants are hereby afforded TWO (2) MONTHS from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Failure to timely file the proper response will result in **ABANDONMENT** of this application.

Any further correspondence with respect to this matter should be addressed to the

Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 13

GREER, BURNS & CRAIN
300 S WACKER DR.
25TH FLOOR
CHICAGO, IL 60606

COPY MAILED

APR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Yuri Bolotinsky, et. al.	:	
Application No. 09/830,468	:	ON PETITION
Filed: June 11, 2001	:	
Attorney Docket No. 1811.65458	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed August 1, 2002, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 1, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 2800.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 17

MICHAEL L GOLDMAN
NIXON PEABODY
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Francis Barany et al	:	
Application No. 09/830,502	:	NOTICE
Filed: October 9, 2001	:	
Attorney Docket No. 19603/2615	:	

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.

The application file is being forwarded to Technology Center AU 1652.

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

Paper No. 22

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE, P.O. BOX 31051
ROCHESTER, NY 14603-1051

COPY MAILED

MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Francis Barany et al :
Application No. 09/830,502 :
Filed: October 9, 2001 :
Attorney Docket No. 19603/2615

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 1652.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

NOV 1 4 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Horts M. Kasper
13 Forest Drive
Warren, NJ 07059

In re Application of HERRMANN et al	:	
U.S. Application No.: 09/830,518	:	
Int. Application No.: PCT/EP00/08126	:	DECISION
Int. Filing Date: 21 August 2000	:	
Priority Date: 26 August 1999	:	
Attorney Docket No.: NNG201	:	
For: POLYCYCLIC PYRIMIDINE...	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 21 August 2000, applicants filed international application PCT/EP00/08126, which claimed priority of an earlier Germany application filed 26 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 01 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 26 April 2001.

On 27 April 2001, applicants filed national stage papers in the United States[1]. The submission included, *inter alia*, a Transmittal Letter and the basic national fee.

CONCLUSION

Because applicants did not timely file the basic national fee, the present application is ABANDONED as to the United States of America.

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[1] It is noted that the Transmittal Letter filed 27 April 2001 contains an "Express Mail Certification" which states that the attached correspondence was deposited in Express Mail on 26 April 2001. Under 37 CFR 1.8(a)(2)(F), the benefit of a certificate of mailing does not apply to the filing of the basic national fee necessary to enter the national stage. However, applicant may wish to file a petition under 37 CFR 1.10(c).

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

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TC 8-9-01

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PATENT & TRADEMARK OFFICE

Jacobson Holman PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of GLENSBJERG	:	
U.S. Application No.: 09/830,558	:	
Int. Application No.: PCT/DK99/00606	:	
Int. Filing Date: 05 November 1999	:	COMMUNICATION
Priority Date: 05 November 1998	:	
Attorney Docket No.: P66611US0	:	
For: A SYSTEM FOR REGULATING THE HANDLING OF MILK DURING THE MILKING PROCESS AND A METHOD FOR REGULATING SAID MILKING PROCESS	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/DK99/00606, which claimed priority of an earlier Denmark application filed 05 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 18 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 31 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 United States expired at midnight on 07 May 2001 (05 May 2001 was a Saturday).

On 07 May 2001, applicants 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) and an executed declaration.

DISCUSSION

A review of the application file reveals that the sole inventor is listed in the declaration as Borkur Arnvidarson while the sole inventor is listed on the international application as Martin Glensbjerg.

JACOBSON HOLMAN PLLC
Response Due On Or Before
10 / 7 / 01
Month Day Year

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, applicant has not provided the requisite statements from Arnvidarson and Glensbjerg.

With regard to item (2) above, the requisite fee has not been provided.

With regard to item (3) above, the written consent of the assignee has not been provided.

Therefore, none of the requirements of 37 CFR 1.497(d) have been satisfied.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication. A proper response would include either a declaration properly executed by the inventive entity listed on the international application or the items required by 37 CFR 1.497(d). Failure to timely file a proper response will result in ABANDONMENT of the application.

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

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, applicant has not provided the requisite statements from Arnvidarson and Glensbjerg.

With regard to item (2) above, the requisite fee has not been provided.

With regard to item (3) above, the written consent of the assignee has not been provided.

Therefore, none of the requirements of 37 CFR 1.497(d) have been satisfied.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication. A proper response would include either a declaration properly executed by the inventive entity listed on the international application or the items required by 37 CFR 1.497(d). Failure to timely file a proper response will result in ABANDONMENT of the application.

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

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Washington, D.C. 20231
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#3

Jacobson Holman PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of GLENSBJERG	:	
U.S. Application No.: 09/830,558	:	
Int. Application No.: PCT/DK99/00606	:	
Int. Filing Date: 05 November 1999	:	COMMUNICATION
Priority Date: 05 November 1998	:	
Attorney Docket No.: P66611US0	:	
For: A SYSTEM FOR REGULATING THE	:	
HANDLING OF MILK DURING THE	:	
MILKING PROCESS AND A METHOD FOR	:	
REGULATING SAID MILKING PROCESS	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/DK99/00606, which claimed priority of an earlier Denmark application filed 05 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 18 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 31 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 United States expired at midnight on 07 May 2001 (05 May 2001 was a Saturday).

On 07 May 2001, applicants 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) and an executed declaration.

DISCUSSION

A review of the application file reveals that the sole inventor is listed in the declaration as Borkur Arnvidarson while the sole inventor is listed on the international application as Martin Glensbjerg.

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Washington, D.C. 20231
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#5

Jacobson Holman PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of ARNVIDARSON	:	
U.S. Application No.: 09/830,558	:	
Int. Application No.: PCT/DK99/00606	:	
Int. Filing Date: 05 November 1999	:	COMMUNICATION
Priority Date: 05 November 1998	:	
Attorney Docket No.: P66611US0	:	
For: A SYSTEM FOR REGULATING THE	:	
HANDLING OF MILK DURING THE	:	
MILKING PROCESS AND A METHOD FOR	:	
REGULATING SAID MILKING PROCESS	:	

This is in response to applicant's "Response to Communication" filed 09 October 2001 and "Supplemental Response to Communication" filed 05 November 2001.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/DK99/00606, which claimed priority of an earlier Denmark application filed 05 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 18 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 31 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 United States expired at midnight on 07 May 2001 (05 May 2001 was a Saturday).

On 07 May 2001, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 07 August 2001, this Office mailed a communication which indicated that the sole inventor is listed in the declaration as Borkur Arnvidarson while the sole inventor is listed on the international application as Martin Glensbjerg.

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 Borkur Arnvidarson is the inventor. Therefore, the declaration filed 07 May 2001 is in compliance with 37 CFR 1.497.

CONCLUSION

The application has an International Filing Date of 05 November 1999 and a date under 35 U.S.C. 371 of 07 May 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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OFFICE OF PETITIONS

Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, Va 22304

In re Application of
Matsumoto.
Application No. 09/830,588
Filed: May 29, 2001
Attorney Docket No. Hash0011/U/PCT/US

: DECISION GRANTING APPLICATION

This decision is in response to applicant's application titled "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT" timely[1] filed on September 20, 2004 requesting that the Patent Office adjust the amount of days granted at the time of the notice of allowance from 347 to 454 days.

Applicant's application for PTA is **GRANTED.** The Office will adjust the PAIR calculation to reflect that the correct determination at the time of the mailing of the notice of allowance is four hundred and fifty-four (454) days.

Applicant notes that the Office incorrectly assessed a one hundred and seven day (107) delay by applicant for failing to reply to the Office's mailing of a non-final rejection within three months of the mailing of the Office action. Applicant assert that the Office remailed the Office action on January 29, 2004 restarting the time period. Accordingly, the applicant asserts that the applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application because they responded within three months of the remailed action.

Applicant arguments are persuasive. The Office mailed an Office action on October 6, 2003 but then mailed another Office action on January 29, 2004 which gave applicant three months to respond. Applicant responded within three months on April 22, 2004. Accordingly, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application. The one hundred and seven (107) day reduction to patent term adjustment is an error. The Office further notes that applicant correctly received 454 days of PTA for the Office's failure to initially act upon the application within 14 months as required. See 37 CFR 1.702(a)(1). Therefore, the correct amount of patent term at the time of the mailing of the notice of allowance is four hundred and fifty-four (454) days.

The Office acknowledges the payment of the $200.00 fee for this application. No additional fees are required.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publication for a prompt issuance of this patent application. Any delays in issuance of the patent

[1]Issue fee paid on 9-20-2004.

Application Number 09/830,588

will be reflected in the PTA calculation provided with the issue notification letter

Any questions concerning this matter should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7757.

/Kery A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 12

Steven J. Rocci
Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

JAN 31 2003

In re Application of	:	
Drabon et al.	:	
Application No.: 09/830,591	:	DECISION ON REQUEST TO
Filed: June 5, 2001	:	WITHDRAW FROM RECORD
For: CAPACITOR MODULE	:	
FOR A CONVERTER	:	

This is a decision on the request to withdraw as attorney or agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on April 11, 2002.

The request is **APPROVED** for the withdrawal of all of the attorneys presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney of record.

As requested, all future communications from the Office will be directed to Noel Akers at the address provided below unless otherwise notified by applicant.

Any inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Noel Akers
Howrey Simon Arnold & White
City Point, 1 Ropemaker Street
London EC2Y 9HS
ENGLAND
AIR MAIL

AUG 14 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Dellett and Walters
310 S.W. Fourth Avenue, Suite 1101
Portland, OR 97204

In re Application of FIJIKAWA et al	:	
U.S. Application No.:09/830,598	:	
Int. Application No.: PCT/JP00/06038	:	
Int. Filing Date: 06 September 2000	:	DECISION
Priority Date: 09 September 1999	:	
Attorney Docket No.: A-398	:	
For: HALFTONE PHASE SHIFT PHOTOMASK	:	
AND BLANKS FOR HALFTONE PHASE	:	
SHIFT PHOTOMASK FOR PRODUCING IT	:	

This is in response to applicants' "Letter" filed 27 April 2001, requesting correction of the given name of the third inventor.

BACKGROUND

On 06 September 2000, applicants filed international application PCT/JP00/06038, which claimed priority of an earlier Japan application filed 09 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 09 May 2001.

On 27 April 2001, applicants 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), an executed declaration, and the present request.

DISCUSSION

A review of the application file, including applicants' arguments in the present "Letter", reveals that the given name of the third inventor is listed in the international application as "Takashi" while the given name is listed in the declaration as "Takafumi". In that this is clearly more than a mere typographical error or a phonetic misspelling of the inventor's given name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130.00 as well as statements from the

inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent.

It is further noted that the family name of the first inventor is listed in the international application as "Fijikawa" while the family name is listed in the declaration as "Fujikawa". Applicants are required to provide an explanation for this discrepancy.

CONCLUSION

For the reasons above, the request to correct the name of the third inventor is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182" and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

NOV 2 9 2001

#5

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Dellett and Walters
310 S.W. Fourth Avenue, Suite 1101
Portland, OR 97204

In re Application of FIJIKAWA et al	:	
U.S. Application No.:09/830,598	:	
Int. Application No.: PCT/JP00/06038	:	
Int. Filing Date: 06 September 2000	:	DECISION
Priority Date: 09 September 1999	:	
Attorney Docket No.: A-398	:	
For: HALFTONE PHASE SHIFT PHOTOMASK	:	
AND BLANKS FOR HALFTONE PHASE	:	
SHIFT PHOTOMASK FOR PRODUCING IT	:	

This is in response to applicants' "Petition Under 37 CFR 1.182" filed 11 October 2001, requesting correction of the given name of the third inventor.

BACKGROUND

On 06 September 2000, applicants filed international application PCT/JP00/06038, which claimed priority of an earlier Japan application filed 09 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 09 May 2001.

On 27 April 2001, applicants 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), an executed declaration, and a request to correct the name of the third inventor.

On 14 August 2001, this Office mailed a decision dismissing the request to correct the name of the third inventor on grounds that the discrepancy between the name listed in the declaration and that listed in the international application is the result of more than a mere typographical error or phonetic misspelling.

On 11 October 2001, applicants filed the present petition under 37 CFR 1.182.

DISCUSSION

The given name of the third inventor is listed in the international application as "Takashi" while the given name is listed in the declaration as "Takafumi". The petition states that the error is a typographical or transliteration error in the Japanese language because the Japanese character for "shi" is the same as the Japanese character for "fumi". However, this indicates that there was no error made in the Japanese language. Rather, the error purportedly occurred when the inventor's name was translated from Japanese into English. Note that a translation error is not equivalent to a typographical error (e.g. "Fujikawa" versus "Fijikawa") or a transliteration error (e.g. "George" versus "Jörg").

A proper petition under 37 CFR 1.182 must be accompanied by the requisite petition fee of $130.00 as well as statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent. In the present case, applicants have provided the requisite petition fee but have not provided a statement from the inventor and a statement from the person having firsthand knowledge of the error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. Extensions of time are available pursuant to 37 CFR 1.136.

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

APR 1 6 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Dellett and Walters
310 S.W. Fourth Avenue, Suite 1101
Portland, OR 97204

In re Application of FUJIKAWA et al	:	
U.S. Application No.:09/830,598	:	
Int. Application No.: PCT/JP00/06038	:	
Int. Filing Date: 06 September 2000	:	DECISION
Priority Date: 09 September 1999	:	
Attorney Docket No.: A-398	:	
For: HALFTONE PHASE SHIFT PHOTOMASK AND BLANKS FOR HALFTONE PHASE SHIFT PHOTOMASK FOR PRODUCING IT	:	

This is in response to applicants' "Renewed Petition Under 37 CFR 1.182" filed 29 March 2002, requesting correction of the given name of the third inventor.

BACKGROUND

On 06 September 2000, applicants filed international application PCT/JP00/06038, which claimed priority of an earlier Japan application filed 09 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 09 May 2001.

On 27 April 2001, applicants 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), an executed declaration, and a request to correct the name of the third inventor.

On 14 August 2001, this Office mailed a decision dismissing the request to correct the name of the third inventor on grounds that the discrepancy between the name listed in the declaration and that listed in the international application is the result of more than a mere typographical error or phonetic misspelling.

On 11 October 2001, applicants filed a petition under 37 CFR 1.182.

On 29 November 2001, this Office mailed a decision dismissing the 10 October 2001 petition on grounds that applicant had not provided the required statements concerning the error in the inventor's name.

On 29 March 2002, applicants filed the present renewed petition along with an additional petition fee.

DISCUSSION

The given name of the third inventor is listed in the international application as "Takashi" while the given name is listed in the declaration as "Takafumi". The petition states that the error occurred when the inventor's name was translated from Japanese into English. The petition is accompanied by statements from the inventor and other persons having firsthand knowledge of the error. These statements set forth the specific circumstances as to how and when the error was made and discovered and set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date of 06 September 2000 and a date under 35 U.S.C. 371 of 27 April 2001.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, including refunding the $130.00 petition fee submitted 29 March 2002 pursuant to 37 CFR 1.26.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NE

Mailed: JUL 14 2005

In re application of Mirkin et al. Serial No. 09/830,620 Filed: November 30, 1999 For: NANOPARTICLES WITH POLMER SHELLS	:	DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed October 1, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 1, 2004, for failure to timely file a proper reply to the Office letter mailed February 12, 2004 be withdrawn since the applicants did timely file a reply on August 12, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on August 12, 2004 as demonstrated by the returned post card receipt. Any holding of abandonment for failure to timely file a proper reply to the Office letter mailed February 12, 2004, therefore, is hereby vacated.

In view of the Notice of Rescinded Abandonment mailed by the USPTO on September 23, 2004, the application was returned to pending status. Accordingly, the petition is **DISMISSED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

03 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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KNOBBE, MARTENS, OLSEN & BEAR, LLP
620 Newport Center Drive, 16th Floor
Newport Beach, CA 92660

In re Application of	:	
TARAN, Alexander Ivanovich	:	**DECISION ON PETITION**
Application No.: 09/830,635	:	
PCT No.: PCT/RU99/00062	:	**TO WITHDRAW HOLDING**
Int. Filing Date: 04 March 1999	:	
Priority Date: 08 December 1998	:	**OF ABANDONMENT**
Attorney's Docket No.: VALER11.001APC	:	
For: CONTACT NODE	:	

The decision is in response to the documents filed via facsimile on 30 July 2002 which have been treated as a petition to withdraw holding of abandonment. No fee is required.

BACKGROUND

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) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided. A two-month time period for response was set.

On 02 August 2001, applicants purportedly filed a response which contained an executed declaration and a check for the $65.00 surcharge fee.

On 08 July 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 within the time period set.

On 30 July 2002, applicants filed the instant petition which was accompanied by, *inter alia*, copies of the documents purportedly filed 02 August 2001 and a stamped postcard receipt for the 02 August 2001 documents.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is

requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped filing receipt for documents submitted 02 August 2001. The filing receipt records that a "Decl. and Power of Attorney and $65.00 check" were received in the USPTO. The filing receipt is stamped "OIPE AUG 02 2001" across its face. The U.S. application number, attorney docket number and name of the applicant are all listed on the postcard receipt. Moreover, a review of USPTO financial records reveal that the $65.00 check for the surcharge fee was received on 02 August 2001.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 02 August 2001.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 08 July 2002 is hereby **VACATED**.

A review of the declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 March 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **02 August 2001.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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
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IRVINE CA 92614

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Alexander Ivanovich Taran	:	
Application No. 09/830,635	:	DECISION ON PETITION
Filed: 08/02/2001	:	
Attorney Docket No. VALER11.001APC	:	

This is decision on the petition filed on August 10, 2006, to withdraw the holding of abandonment in the above-identified application.

On March 25, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application became abandoned on June 26, 2005. On November 16, 2005, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they did not receive the nonfinal Office action mailed March 25, 2005, because the USPTO mailed it to an old correspondence address. Therefore, petitioners requested that the Office withdraw the holding of abandonment. Specifically, petitioners averred that their address was changed several years ago, and that their new address had been updated with the USPTO. Petitioners stated they had no problems receiving correspondence from the USPTO with regard to other patent applications at their current address. Petitioners requested that the USPTO update its records to reflect their current correspondence address associated with Customer No. 20995.

After reviewing the USPTO's records, and consulting with the Electronic Business Center, there is no indication that petitioner ever associated this application with Customer Number 20995. Moreover, the record does not show that petitioners filed a change of correspondence address with the USPTO to reflect their current address prior to the filing of this petition. Unless the correspondence address is designated as the address associated with a Customer Number, and that Customer Number is associated with a patent application, a separate change of correspondence address must be filed in each application for which a person is intended to receive communications from the Office. See MPEP 601.03.

As the record reveals that petitioners did not submit a timely change of correspondence address, the Office mailed the nonfinal Office action of March 25, 2005, to the correct correspondence address, as it existed on record at that time. For these reasons stated, the petition to withdraw the holding of abandonment is **dismissed**.

A copy of the nonfinal Office action of March 25, 2005, accompanies this decision for petitioners' convenience. The Office acknowledges petitioners' request to change the correspondence address to the address associated with Customer Number 20995, and has made it of record.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

In the alternative, petitioners may wish to seek relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay, instead of submitting a request for reconsideration of the decision. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or Notice, unless previously filed; (2) the petition fee, 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of nonfinal Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,635	08/02/2001	Alexander Ivanovich Taran	VALER11.001APC	1851

7590 03/25/2005

Knobbe Martens
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Newport Beach, CA 92660

EXAMINER
NORRIS, JEREMY C

ART UNIT	PAPER NUMBER
2841	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/830,635	TARAN, ALEXANDER IVANOVICH	
	Examiner	Art Unit	
	Jeremy C. Norris	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *24-36 and 46-61* is/are rejected.

7)☒ Claim(s) *37-45* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings were received on 13 December 2004. These drawings are acceptable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 24-26, 30, 46-48, 59, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,100,475 (Degani) in view of US 5,406,459 (Tsukamoto).

Degani discloses, referring to figure 5, a contact node comprising: at least two metallized contacts (16, 27) respectively, made on the base of a dielectric material and mutually aligned and interconnected electrically and mechanically by a conductive binding material (26), wherein it is made in the form of a joint between a contact made in the form of a metallized contact pad (27), and a respective contact joined with the

contact pad via conductive binding material (solder ball shown not specifically referenced) and made in the form of a metallized hole through an upper-lying connection layer, the metallized hole having an inner surface thereof connected to the first conductive path (21) the lower edge of the metallized hole being faced to the metallized contact pad on the surface of the under-lying connection layer. Degani does not specifically disclose second conductive paths arranged on the surface of the under-lying substrate **[claim 24]**. Instead, Degani generically refers to the under-lying layer as an interconnection substrate without further details. However, it is well known in the art to connect mounting pads to conductive paths on the surface of substrates as evidenced by Tsukamoto (see fig 2A). Therefore, it would have been obvious, to one having ordinary skill in the art, at the time of invention, to connect the pads in the invention of Degani to conductive paths on the surface of the under-lying layer as is well known in the art and evidenced by Tsukamoto. The motivation for doing so would have been to allow for signal to be routed from the pads to other areas on the surface of the underlying layer. Additionally, the modified invention of Degani teaches, wherein the metallized hole is in the form of a cylinder **[claim 25]**, wherein the upper edge of the metallized hole coupled with the conductive paths on the surface of the upper-lying connection layer forms a metallized rim along the periphery of the edge **[claim 26]**, wherein the metallized contact pad is flat **[claim 30]**, wherein the upper and lower edges of the metallized hole have a facet **[claim 46]**. Regarding the limitation "wherein the contact node is for use with unpackaged IC chips for multichip modules" **[claim 59]**, this

limitation is an intended use limitation and thus only requires the ability to perform in the stated manner.

Similarly, Degani discloses, referring to figure 3, a contact node, comprising: a first connection layer (41) having a conductive path on a surface thereof; a second connection layer (42) deposited adjacent to the first connection layer; and a metallized hole (43) provided through the first connection layer and having an inner surface thereof connected to the conductive path of the first connection layer; and a metallized contact pad provided on the surface of the second connection layer, wherein a conductive binding material (45) is deposited in the metallized hole to be in contact with the inner surface of the metallized hole and the metallized contact pad so as to form connection between the first and second connection layers. Degani does not specifically disclose second conductive paths arranged on the surface of the under-lying substrate connect to the contact pad **[claim 47]**. Instead, Degani generically refers to the under-lying layer as an interconnection substrate without further details. However, it is well known in the art to connect mounting pads to conductive paths on the surface of substrates as evidenced by Tsukamoto (see fig 2A). Therefore, it would have been obvious, to one having ordinary skill in the art, at the time of invention, to connect the pads in the invention of Degani to conductive paths on the surface of the under-lying layer as is well known in the art and evidenced by Tsukamoto. The motivation for doing so would have been to allow for signal to be routed from the pads to other areas on the surface of the underlying layer. Additionally, the modified invention of Degani teaches wherein the

metallized hole is in a form of a cylinder **[claim 48]**. Regarding the limitation "wherein the contact node is for use with unpackaged IC chips for multichip modules" **[claim 61]**, this limitation is an intended use limitation and thus only requires the ability to perform in the stated manner.

Claims 24, 27-35, 46, 47, 49-57 59 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,087,597 (Shimada) in view of Tsukamoto.

Shimada discloses, referring to figure 2, a contact node comprising: at least two metallized contacts coupled with conductive paths arranged on surfaces of connection layers made on the base of a dielectric material and mutually aligned and interconnected electrically and mechanically by a conductive binding material (13), wherein it is made in the form of a joint between a contact made in the form of a metallized contact pad (31) coupled with the conductive paths on the surface of the connection layer, and a respective contact joined with the contact pad and made in the form of a metallized hole (23) in an upper-lying connection layer, the lower edge of the metallized hole being faced to the metallized contact pad on the surface of the underlying connection layer, and the upper edge of the hole being coupled with the conductive paths (24) on the upper surface of the upper-lying connection layer. Shimada does not specifically disclose second conductive paths arranged on the surface of the under-lying substrate connect to the contact pad **[claim 24]**. Instead, Shimada generically refers to the under-lying layer as a substrate without further details. However, it is well known in the art to connect mounting pads to conductive

paths on the surface of substrates as evidenced by Tsukamoto (see fig 2A). Therefore, it would have been obvious, to one having ordinary skill in the art, at the time of invention, to connect the pads in the invention of Shimada to conductive paths on the surface of the under-lying layer as is well known in the art and evidenced by Tsukamoto. The motivation for doing so would have been to allow for signal to be routed from the pads to other areas on the surface of the underlying layer. Additionally, the modified invention of Shimada teaches wherein the metallized hole is made in the form of a truncated cone, the lower base of the truncated cones being faced to the contact pad on the surface of the underlying connection layer, and the upper base of the truncated cones being coupled with the conductive paths on the upper surface of the upper-lying connection layer **[claim 27]**, wherein the upper edge of the metallized hole coupled with the conductive paths on the surface of the connection layer forms a metallized rim long the periphery of the edge **[claim 28]**, wherein an integrated circuit chip (41) oriented by its metallized contact pads to the corresponding metallized holes in the upper-lying connection layer is used as a connection layer with the metallized contact pads respective to the metallized holes in the upper-lying connection layer **[claim 29]**, wherein the metallized contact pad is flat **[claim 30]**, further comprising a protrusion (31) interacting with the respective metallized hole formed in the center of the metallized contact pad respective to the metallized hole **[claim 31]**, wherein the protrusion is in the form of a sphere (see col. 2, lines 20-30) **[claim 34]**, wherein the protrusion is made of a conductive material (see col. 3, lines 30-35) **[claim 35]**, wherein the upper and lower edges of the metallized hole have a facet **[claim 46]**. Regarding the

limitation "wherein the contact node is for use with unpackaged IC chips for multichip modules" **[claim 59]**, this limitation is an intended use limitation and thus only requires the ability to perform in the stated manner.

Similarly, Shimada discloses, referring to figure 2, a contact node, comprising: a first connection layer (21) having a conductive path on a surface thereof; a second connection layer (30) deposited adjacent to the first connection layer having a conductive path on a surface thereof; and a metallized hole (23) provided through the first connection layer and having an inner surface thereof connected to the conductive path of the first connection layer; and a metallized contact pad (31) provided on the surface of the second connection layer and connected with the conductive path of the second connection layer, wherein a conductive binding material (13) is deposited in the metallized hole to be in contact with the inner surface of the metallized hole and the metallized contact pad so as to form connection between the first and second connection layers. Shimada does not specifically disclose second conductive paths arranged on the surface of the under-lying substrate connect to the contact pad **[claim 47]**. Instead, Shimada generically refers to the under-lying layer as an interconnection substrate without further details. However, it is well known in the art to connect mounting pads to conductive paths on the surface of substrates as evidenced by Tsukamoto (see fig 2A). Therefore, it would have been obvious, to one having ordinary skill in the art, at the time of invention, to connect the pads in the invention of Degani to conductive paths on the surface of the under-lying layer as is well known in the art and

evidenced by Tsukamoto. The motivation for doing so would have been to allow for signal to be routed from the pads to other areas on the surface of the underlying layer. Additionally, the modified invention of Shimada teaches, wherein the metallized contact pad has a metallized protrusion (11) in a form of a sphere (see col. 2, lines 20-30) in the conductive binding material [claims 49, 54], wherein the metallized hole is in a form of a truncated cone **[claim 53]**. Regarding the limitation "wherein the contact node is for use with unpackaged IC chips for multichip modules" **[claim 61]**, this limitation is an intended use limitation and thus only requires the ability to perform in the stated manner.

Regarding claims 32, 33, 50-52 and 55-57, the modified invention of Shimada discloses the claimed invention as described above except the modified invention of Shimada does not specifically state that the protrusion is in the form of a cylinder [claims 32, 51, 56], cone [claims 33, 50, 55] or rod [claims 52, 57]. However, Shimada does teach that any shape may be used for the protrusion (see col. 7, lines 10-20). The Examiner takes Official Notice that cylinder, cone, and rod are known and well defined shapes. Therefore, it would have been obvious, to one having ordinary skill in the art, at the time of invention, to use any of the rod, cylinder, or cone shapes as the shape for the protrusion in the invention of Shimada. The motivation for doing so would have been to utilize the shape that most facilitates insertion into the corresponding through hole (see Shimada, col. 7, lines 15-20).

Response to Arguments

Applicant's arguments with respect to claims 24-36 and 46-61 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 37-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claim 37 states the limitation "further comprising a contact made in the form of a rod fixed in the underlying connection layer orthogonally to its surface inserted into the metallized hole". This limitation, in conjunction with the other claimed limitations was neither found to be disclosed in, nor suggested by the prior art. Claim 44 states the limitation "wherein the diameter D of the upper base of the truncated cone, the width h of the metallized rim, the diameter d of the lower base of the truncated cone, the thickness t of the dielectric material of the connection layer and the minimal width L of the respective metallized contact pad on the underlying connection layer are coupled with the following relationship: $L \geq D + 2h = d + 2t + 2h$". This limitation, in conjunction with the other claimed limitations was neither found to be disclosed in, nor suggested by the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy C. Norris whose telephone number is 571-272-1932. The examiner can normally be reached on Monday - Friday, 9:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JCSN

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Alexander Ivanovich Taran :
Application No. 09/830,635 : DECISION ON PETITION
Filed: 08/02/2001 :
Attorney Docket No. VALER11.001APC :

This is decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

On March 25, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application became abandoned on June 26, 2005. On November 16, 2005, the Office mailed a Notice of Abandonment. On August 10, 2006, petitioner filed a petition to withdraw the holding of abandonment in the above-identified application, which was dismissed by the decision of January 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525.00 extension of time fee submitted with the petition on October 17, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the deposit account

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the reply received October 4, 2007.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:
Kenichi Aarai et al	:
Application No. 09/830,647	: DECISION DISMISSING PETITION
Filed:July 30, 2001	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 2001-0531A	:

This is a decision on the petition, filed August 29, 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 **dismissed**.

Petitioner states that the correct assignee's name is **Japan Science and Technology Agency; Kenichi Arai and Hisao Masai,** and that the correct assignee's name was unintentionally not included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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 instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by

---

[1] *See* Official Gazette of June 22, 2004

3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **Japan Science and Technology Agency; Kenichi Arai and Hisao Masai** has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that the above assignees were the assignees of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Japan Science and Technology Agency; Kenichi Arai and Hisao Masai., as the assignees**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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711 LOUISIANA STREET
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HOUSTON, TX 77002

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FEB 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Paolo Pevarello et al	:	
Application No. 09/830,668	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 205559US0PCT	:	

This is a decision on the petition under 37 CFR 1.313(c), filed February 17, 2004, which is being treated under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

The application is being referred to Technology Center AU 1626 for consideration of the Amendment and Information Disclosure Statement filed February 17, 2004.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 01 2006

Technology Center 2100

James A. LaBarre
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of: Clavier, et al. Application No. 09/830,685 Attorney Docket No. 032326-138 Filed: July 17, 2001 For: COUNTERMEASURE METHOD IN AN ELECTRONIC COMPONENT USING A SECRET KEY CRYPTOGRAPHIC ALGORITHM	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, filed September 9, 2005, requesting the restart of the response period due to non-receipt of Office action, which is being treated as a Petition to Withdraw the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. Although a Notice of Abandonment has not yet been mailed, the instant application went abandoned for failure to respond to the Office action (non-final) mailed January 6, 2005 upon expiration of the six month statutory period which expired on July 6, 2005.

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Office action was not received and that a search of the file jacket and document records has been performed. Finally, Petitioner 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 January 6, 2005) to the applicant.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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United States Patent and Trademark Office
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James A LaBarre
Buchanan Ingersoll PC
P.O. Box 1404
Alexandria VA 22313-1404

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APR 09 2007

Technology Center 2100

In re Application of:
Clavier et al
Application No. 09/830,685
Filed: July 21, 2001
For: Countermeasure Method in an Electronic Component using a Secret Key Cryptographic Algorithm

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed March 10, 2006 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the final rejection mailed on January 6, 2005. A Notice of Abandonment was mailed on March 3, 2006.

In support of the petition, petitioner stated that on March 1, 2006 a petition decision was mailed out granting the withholding of abandonment which states that the office action of January 6, 2005, would be re-mailed out with a new period of response.

A review of the file reveals that the January 6th, 2005 office action was never re-mailed with a new response, therefore the mailing of the notice of abandonment on March 3, 2006 was improper and is hereby withdrawn.

For the above stated reasons, the petition is **GRANTED**.

The application is being forwarded to the Head SAE for re-mailing of the January 6th, 2005 office action.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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James A LaBarre
Buchanan Ingersoll PC
P.O. Box 1404
Alexandria VA 22313-1404

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APR 09 2007

Technology Center 2100

In re Application of:
Clavier et al
Application No. 09/830,685
Filed: July 21, 2001
For: Countermeasure Method in an Electronic Component using a Secret Key Cryptographic Algorithm

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed March 10, 2006 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the final rejection mailed on January 6, 2005. A Notice of Abandonment was mailed on March 3, 2006.

In support of the petition, petitioner stated that on March 1, 2006 a petition decision was mailed out granting the withholding of abandonment which states that the office action of January 6, 2005, would be re-mailed out with a new period of response.

A review of the file reveals that the January 6th, 2005 office action was never re-mailed with a new response, therefore the mailing of the notice of abandonment on March 3, 2006 was improper and is hereby withdrawn.

For the above stated reasons, the petition is **GRANTED**.

The application is being forwarded to the Head SAE for re-mailing of the January 6th, 2005 office action.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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GATES & COOPER LLP
ATTN: GEORGE H. GATES
6701 CENTER DRIVE WEST
SUITE 1050
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Patent No. 6,987,026	:	
Issue Date: January 17, 2006	:	
Application No. 09/830,691	:	DECISION ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No.	:	
G&C 118.12-US-WO		

This is a decision on the request under 37 CFR 3.81(b), filed February 21, 2006 and again on July 18, 2007, to delete the name of an assignee from the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

As authorized, the $130 processing fee for the request under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 16

BASF CORPORATION
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

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OFFICE OF PETITIONS

In re Application of
Rink et al.
Application No. 09/830,694
Filed: May 14, 2001
Attorney Docket No. IN-5484

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 3, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 21, 2003. A Notice of Abandonment was mailed on January 21, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PO Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Saito et al.	:	
Application No. 09/830,750	:	DECISION ON APPLICATION
Filed: April 30, 2001	:	FOR
Attorney Docket No. 9683/77	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 11, 2005. Applicants request correction of the patent term adjustment from seven hundred six (706) days to add at least 218 days solely on the basis of 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[1]. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

[1] Citing each adjustment and reduction of record, applicants otherwise agree with the determination of patent term adjustment of 706 days indicated in the notice of allowance.

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 North Old Woodward, Suite 400
Birmingham, MI 48009

In re Application of	:	
Laudenberg	:	
Application No. 09/830,806	:	DECISION
PCT No.: PCT/GB99/03518	:	
Int. Filing Date: 28 October 1999	:	ON
Priority Date: 28 October 1998	:	
Atty. Docket No.: 11783.0017.PCUS00	:	PETITION
For: Apparatus And Method For	:	
Obtaining 3D Images	:	

This is in response to the provisional petition under 37 CFR 1.78(a)(2) filed on 17 September 2001.

BACKGROUND

This international application was filed on 28 October 1999, claimed an earlier priority date of 28 October 1998, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. On 04 May 2000, the International Bureau transmitted a copy of the published international application to the USPTO. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 30 April 2001 (since 28 April 2001 was a Saturday).

On 30 April 2001, applicant filed, *inter alia*, the required basic national fee.

On 29 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration, a surcharge under 37 CFR 1.492(e), and either $303.00 in additional claim fees or cancellation of additional claims for which fees were due.

On 30 July 2001, applicant filed an executed declaration of the inventor, a surcharge under 37 CFR 1.492(e), and $144.00 in small entity claims fees ($135.00 for multiple dependent claims fee and $9 for one extra total claim).

On 17 August 2001, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, indicating that the date of this application under 35 U.S.C. 371 (c)(1), (2) and (4) was 30 July 2001.

On 17 September 2001, applicant filed a preliminary amendment amending the first page of the specification to make reference to the national stage status of this application and

to claim benefit of priority to two earlier-filed British applications, as well as a provisional petition under 37 CFR 1.78(a)(2).

DISCUSSION

The provisional petition under 37 CFR 1.78(a)(2) is moot because this application is a national stage under 35 U.S.C. 371 of international application PCT/GB99/03518. Therefore, a claim to priority of the international application as an *earlier* application would not be appropriate. Furthermore, the claim to priority to a foreign application is governed by by 37 CFR 1.55(a)(ii). Since the priority claim was made to the earlier foreign application in the PCT application, no petition is necessary for the claim to foreign priority. As such, the petition under 37 CFR 1.78(a)(2) is **DISMISSED AS MOOT**.

DECISION

The petitions under 37 CFR 1.78(a)(2) is **DISMISSED AS MOOT**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.78." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to Technology Center 3700 for further proceedings.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

01 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Joe Liebeschuetz
Townsend and Townsend and Crew LLP
Two Embrarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of	:
Flax, Solomon	: DECISION ON
Application No.: 09/830,830	:
PCT No.: PCT/IL00/00513	: PETITION
Int. Filing Date: 29 August 2000	:
Priority Date: 30 August 1999	: UNDER 37 CFR 1.47(b)
Attorney's Docket No.: 082845000000	:
For: PROCESS FOR PRODUCING METAL-	: AND 1.137(b)
CONTAINING SULFIDORES	:

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(b) NONSIGNING INVENTOR AND PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) " filed on 28 February 2002, which seeks both the acceptance of the application without the signature of the inventor Dr. Solomon Flax and revival of the above application under 37 CFR 1.137(b).

BACKGROUND

On 29 August 2000, applicant filed international application PCT/IL00/00513, which claimed priority of an earlier Israel application filed 30 August 1999. A copy of the international application was transmitted to the United States from the International Bureau on 08 March 2001. A Demand does not appeared to have been filed in this application as advised by the International Bureau on 12 June 2002 that the application is still in Chapter 1. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 30 April 2001.

On 30 August 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). No oath or declaration was submitted at such time.

On 12 October 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that "the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917." The notification also indicated that the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set two months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed, *inter alia*, on 28 February 2002, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration, Power of Attorney signed by Mr. John Omes, Managing Director;

3) the required petition fee; and

4) a petition for revival under 37 CFR 1.137(b).

PETITION UNDER 37 CFR 1.47(b):

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1), (3), (5) and (6), but not items (2), and (4) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided.

Regarding requirement (2), although applicant has concluded that Dr. Flax has refused to sign the declaration the petition does not include sufficient proof to establish that inventor Dr. Flax has refused to execute the application. The standards for proof are set forth in MPEP § 409.03(d), which provides:

> ... Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing inventor's attorney.
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Notwithstanding the statements to the contrary, it does not appear that Gilbert Goller made a bona fide attempt to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing joint inventor Dr. Flax, and that after presentation of the complete copy Dr. Flax refused to sign the Declaration. Mr. Goller declares that Dr. Flax visited his office to discuss another patent application and at that time Mr. Goller asked Dr. Flax to execute the forms for US Application 09/830,830. Mr. Goller then states that Dr. Flax made an express oral refusal to execute the documents for US application 09/830,830 or any other forms relating to this matter. Goller's Declaration at ¶ 1, 2 and 3. However, these forms do not satisfy the requirement of section 409.03(d) because a complete copy of the application (i.e., specification, including claims and drawings) does not appeared to have been presented to Dr. Flax for reviewing and signing

In the present instance, it is not clear whether a complete set of application papers were presented to Dr. Flax to sign. It is noted that no documentary evidence has been introduced into the file record that Dr. Flax was presented with the complete application. 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. It would appear, from Mr. Goller's statement that Dr. Flax was only given the declaration to sign and not a complete copy of the application.

Regarding item (3), applicant has stated the last known address of the nonsigning inventor, which is Rechov Neva Yaacov 102/5, Jerusalem, Israel 98350.

Regarding item (4) a declaration has been provided executed by Mr. John Omes, Managing Director JOMA CHEMICALS AS, stating that he is authorized to sign on behalf of the corporation for the non-signing sole inventor, Dr. Flax, but it has not been yet established that JOMA CHEMICAL AS is the assignee. In addition, copies if the assignment document were not provided with the petition.

Regarding item (5) applicant has submitted proof that applicant has sufficient proprietary interest in the application because of Section 132 of the Israel Patent Law 1967 and an Affidavit of Gideon Kahana explaining it (both included with the petition). This agreement acknowledges ownership of the invention by SATEC ECOCHEM LTD.

Regarding item (6) applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage that will result if the present patent application is deemed abandoned for failure to submit a signed Oath or declaration of the Inventor.

Because items (2), and (4) have not been satisfied, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

PETITION UNDER 37 CFR 137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). With respect to item (4), in this application no terminal disclaimer is required.

With respect to item (1), petitioner has not provided the proper reply because a proper executed declaration has not been submitted.

Accordingly, the petition is deemed to not to satisfy requirement (1) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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 Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Application No.: 09/830,830

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

04 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Joe Liebeschuetz
Townsend and Townsend and Crew LLP
Two Embrarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of	:
Flax, Solomon	: DECISION ON
Application No.: 09/830,830	:
PCT No.: PCT/IL00/00513	: PETITION RENEWED
Int. Filing Date: 29 August 2000	:
Priority Date: 30 August 1999	: UNDER 37 CFR 1.47(b)
Attorney's Docket No.: 082845000000	:
For: PROCESS FOR PRODUCING METAL-	: AND 1.137(b)
CONTAINING SULFIDORES	:

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.47(b) AND UNDER 37 CFR 1.137(b) " filed on 16 August 2002, which seeks both the acceptance of the application without the signature of the inventor Dr. Solomon Flax and revival of the above application under 37 CFR 1.137(b).

BACKGROUND

In a decision from this Office on 01 July 2002, the petition filed on 28 February 2002 was dismissed. The decision indicated that applicant had not satisfied requirements (2) and (4) under 37 CFR 1.47(b) and requirement (1) under 37 CFR 1.137(b).

On 16 August 2002, applicant filed a renewed petition which included a supplement declaration of Gilbert Goller and a copy of the assignment of Israel patent application 131,652 from STATEC ECOCHEM LTD. To JOMA CHEMICAL AS.

DISCUSSION

PETITION UNDER 37 CFR 1.47(b):

Applicant's renewed petition has satisfied requirement (2) of 37 CFR 1.47(b). However, applicant has not satisfied requirement (4) of 37 CFR 1.47(b) and requirement (1) of 1.137(b).

The supplemental declaration by Gilbert Goller have been reviewed and has been found to be in compliance with requirement (2) of 37 CFR 1.47(b). The supplemental declaration states that on or about December 28, 2000, Mr. Goller made a bona fide attempt to present to Dr. Flax with a complete copy of the above-identified application (including the specification, drawings, claims, declaration and power of attorney and assignment) for his signature and that he expressly refused to review or sign the declaration. This evidence is sufficient to establish that the Mr. Flax has refused to sign the declaration.

With respect to requirement (4) of 37 CFR 1.47(b), applicant has submitted a copy, appendix G, of an assignment of Israel patent application 131,652 from SATEC ECOCHEM LTD. to JOMA CHEMICAl. However, the assignment is in Hebrew and no English translation has been provided to verify the assignment. Accordingly, petitioner has not provided sufficient proof that JOMA CHEMiCAL is the assignee. Therefore the previous provided declaration executed by Mr. John Omes on behalf of the non-signing inventor is still defective.

Because item (4) has not been satisfied, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

PETITION UNDER 37 CFR 1.137(b):

With respect to item (1) under 37 CFR 1.137(b), petitioner has not provided the proper reply because a proper executed declaration has not been submitted as explained above.

Accordingly, the petition is deemed to not to satisfy requirement (1) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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 "Second Renewed Second Petition Under 37 CFR 1.47(b) and 1.137(b)." 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 the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

22 JUL 2003

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joe Liebeschuetz
Townsend and Townsend and Crew LLP
Two Embrarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of	:
Flax, Solomon	: DECISION ON
Application No.: 09/830,830	:
PCT No.: PCT/IL00/00513	:
Int. Filing Date: 29 August 2000	: RENEWED PETTION
Priority Date: 30 August 1999	:
Attorney's Docket No.: 082845000000	:
For: PROCESS FOR PRODUCING METAL-	: UNDER 37 CFR 1.47(b
CONTAINING SULFIDORES	:

This decision is in response to applicant's "SECOND RENEWED PETITION UNDER 37 CFR §§1.47(b) and 1.137(b)" submitted on 12 March 2003 in response to a decision mailed by this Office on 04 February 2003.

BACKGROUND

In a decision dated 04 February 2003, applicant's petition under 37 CFR 1.47(b), filed 16 August 2002, was dismissed because applicant failed to provide sufficient proof that JOMA CHEMICAL is the assignee because the assignment provided was in Hebrew and no English translation was provided at such time.

On 12 March 2003, petitioner filed the instant renewed petition. Petitioner has submitted the following papers, *inter alia,* an English translation of the assignment from SATEC ECOCHEM LTD. to JOMA CHEMCIAL.

DISCUSSION

Petitioner has now satisfied requirement (4) of 37 CFR 1.47(b), thus completing the requirements under 37 CFR 1.47(b).

Regarding requirement (4), Petitioner has submitted the following papers, *inter alia,* an English translation of the assignment from SATEC ECOCHEM LTD. to JOMA CHEMCIAL.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of 35 U.S.C. 371(c) dates of **28 February 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

22 JUL 20[illegible]

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dr. Solomon Flax
Rechov Neva Yaacov 102/5
Jerusalem, Israel 98350

In re Application of
Flax, Solomon
Application No.: 09/830,830
PCT No.: PCT/IL00/00513
Int. Filing Date: 29 August 2000
Priority Date: 30 August 1999
Attorney's Docket No.: 082845000000
For: PROCESS FOR PRODUCING METAL-CONTAINING SULFIDORES

Dear Dr. Flax:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. 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 1.47(a) and (b).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Joe Liebeschuetz
Townsend and Townsend and Crew LLP
Two Embrarcadero Center, 8th Floor
San Francisco, CA 94111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7223772

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.

REQUEST FOR CORRECTED PATENT - PLS ADVISE

D. Irvine

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9590

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments:

SPE

1625
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

BERLINER & ASSOCIATES
555 WEST FIFTH STREET
31ST STREET
LOS ANGELES CA 90013

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Lalvani et al.	:	
Application No. 09/830,839	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. 7096-102XX/10103632	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 28, 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 Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: APR 18 2005

MEB
Paper Number:

In re application of
Cornelius Roeland Bayense, et al.
Serial No. 09/830,907
Filed: June 19,2001
For: Star Shaped Alumina Extrudates and Catalyst Based Thereon

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed April 1, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 3, 2004, for failure to timely reply to the office action of July 21, 2004 be withdrawn. The petitioner asserts that the response was timely filed by facsimile on January 16, 2004, with the appropriate extensions of time, notice of appeal, and fees.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding a Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed.

As set forth in MPEP 711.03(c) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply

was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt. Where a certificate of mailing or transmission under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

The petitioner's showing that the response, extensions of time, notice of appeal, and fees were submitted by facsimile on January 16, 2004 is sufficient. The application will be forwarded to the examiner for processing and consideration of the papers filed January 16, 2004, by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Charles L. Gagnebin III
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109

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

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED
AUG 24 2005
OFFICE OF PETITIONS

In re Application of :
Bayense et al. :
Application No. 09/830,907 : DECISION ON PETITION
Filed: June 19, 2001 :
Title of Invention: Star Shaped Alumina :
Extrudates and Catalyst Based Thereon

This is a decision on petition under 37 CFR 1.137(b), filed August 11, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of July 21, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A response to the final Office Action was filed on January 16, 2004.[1] A Notice of Abandonment was mailed on March 2, 2004. A petition to withdraw the holding of abandonment was filed on April 1, 2004 and granted on April 18, 2005. An Advisory Action was mailed on July 14, 2005 informing applicant the response filed on January 16, 2004 did not place the application in condition for allowance. Accordingly, this application became abandoned on January 22, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The RCE fee in the amount of $790.00 will be charged to deposit account 23-0804.

The Request for Continued Examination (RCE), and the amendment submitted with the instant petition will be forwarded to Technology Center 1700 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

[1]It is noted that the three month extension of time fee was not charged. Accordingly deposit account No 23-0804 will be charged the $950.00 extension of time fee.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/27/05

TO SPE OF : ART UNIT **PCT**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/830963 6930258

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:

ISHWAR PATEL
PRIMARY EXAMINER

SPE

2841
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,930,258**

DATED: **Aug. 16, 2005**

INVENTOR(S): **KAWASAKI, et al.**

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, Item 22, the PCT Filed date is incorrect. Item (22) should read:

--[22] PCT Filed: **Oct. 10, 2000** --

Mailing address of sender:

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/02)

Patent No. 6,930,258

No. of add'l copies
@ .30 per page

SEP 12 2005

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLAN.
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

RULE 63 (37 C.F.F 1)
DECLARATION AND POWER .. ATTORNEY
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pillsbury
Winthrop
FORM

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the INVENTION ENTITLED Multi-Layer Printed Circuit Board And Method Of Manufacturing Multi-Layer Printed Circuit Board

the specification of which (CHECK applicable BOX(ES))

X BOX(ES) → A. ☐ is attached hereto.
→ B. ☐ was filed on _____ as U.S. Application No. ___/___
→ C. ☒ was filed as PCT International Application No. PCT/ JP00/07037 on October 10, 2000

and (if applicable to U.S. or PCT application) was amended on _____

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended ~~by any amendment referred~~ to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)

Number	Country	Day/MONTH/Year Filed	Date first Laid-open or Published	Date Patented or Granted	Priority NOT Claimed
11-303305	Japan	26/October/1999			
11-303306	Japan	26/October/1999			
11-303307	Japan	26/October/1999			
2000-029988	Japan	08/February/2000			

☐ If more prior foreign applications, X box at bottom and continue on attached page.

☐ Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT International applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)

Application No. (series code/serial no.)	Day/MONTH/Year Filed	Status pending, abandoned, patented	Priority NOT Claimed

☐ I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

☐ And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, 1100 New York Avenue, N.W., Ninth Floor, East Tower, Washington, D.C. 20005-3918, telephone number (202) 861-3000 (to whom all communications are to be directed), and the below-named persons (of the same address) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete names/numbers below of persons no longer with their firm and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above Firm and/or a below attorney in writing to the contrary.

Paul N. Kokulis	16773	Glenn J. Perry	28458	Stephen C. Glazier	31361	William P. Atkins	38821
						Paul L. Sharer	36004
Kevin E. Joyce	20508	G. Paul Edgell	24238	Richard H. Zaitlen	27248	Robin L. Teskin	35930
George M. Sirilla	18221	Lynn E. Eccleston	35861	Roger R. Wise	31204		
Donald J. Bird	25323			Michael R. Dzwonczyk	36787		
		David A. Jakopin	32995	W. Patrick Bengtsson	32456		
Dale S. Lazar	28872	Mark G. Paulson	30793	Jack S. Barufka	37087		
				Adam R. Hess	41835		

20

(1) INVENTOR'S SIGNATURE: Yogo Kawasaki Date: 2001/4/26

	Yogo		KAWASAKI
	First	Middle Initial	Family Name
Residence	Ogaki	Japan JPX	Japan
	City	State/Foreign Country	Country of Citizenship
Mailing Address (Includ Zip Code)	c/o Ogaki-kojou, IBIDEN Co., Ltd. 905 Kidocho Ogaki-shi, Gifu Japan 503-0973		

(2) INVENTOR'S SIGNATURE: Hiroaki Satake Date: 2001/4/26

	Hiroaki		SATAKE
	First	Middle Initial	Family Name
Residence	Ogaki	Japan JPX	Japan
	City	State/Foreign Country	Country of Citizenship
Mailing Address (include Zip Code)	c/o Aoyagi-kojou, IBIDEN Co., Ltd. 300, Aoyagicho, Ogaki-shi, Gifu Japan 503-0961		

"X" box ☒ FOR ADDITIONAL INVENTORS, and proceed on the attached page to list each additional inventor.

☐ See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. PM
(M#)

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,849,574

APPLICATION NO.: 09/830,996

ISSUE DATE : February 1, 2005

INVENTOR(S) : Heideman et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Col 4, line 26, the recitation of "Na, K, Cs, Ti, Mg, Ca, Sr, Ba, Cu, Zn, Cd, Pb, Cr, Au," should be replaced with "Na, K, Cs, Tl, Mg, Ca, Sr, Ba, Cu, Zn, Cd, Pb, Cr, Au,"

In Col. 6, line 62, the recitation of "As metals M, the metals Li, Na, X, Rb, Cs, Tl, Mg, Ca," should be replaced with "As metals M, the metals Li, Na, K, Rb, Cs, Tl, Mg, Ca,"

MAILING ADDRESS OF SENDER (Please do not use customer number below):

T.O.

Novak Druce & Quigg LLP
1000 Louisiana St., 53rd floor
Houston, TX 77002

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100728

DATE : July 29, 2010

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,849,574

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

UNITED STATES 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. 6730025
Issue Date: May 4,2004
Application No. 09831030
Filed: November 28,2001
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 12,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6730025	2004-05-04	09831030	2001-11-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Edwin D. Schindler/	Date (YYYY-MM-DD)	2008-07-12
Name	Edwin D. Schindler	Registration Number	31459

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

In re Application of
Elisa J. Bernklau et al
Application No. 09/831,094
Filed: November 21, 2001
Attorney Docket No. 2730-65-PUS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 7, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DEC 0 7 2001

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
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Washington, DC 20005

In re Application of Roelof FEENSTRA, Johannes VAN DER HEIJDEN, Cornelis KRUSE, Stephen K. LONG, Johannes MOS, Gerben M. VISSER, Gustaaf VAN SCHARRENBURG, and Gerrit P. TOOROP Application No.: 09/831,149 PCT No.: PCT/EP99/08702 Int. Filing Date: 10 November 1999 Priority Date: 13 November 1998 Attorney Docket No.: 01975.0031 For: NEW PIPERAZINE AND PIPERIDINE COMPOUNDS	DECISION REGARDING SUBMISSION UNDER 37 CFR 1.42

This decision is in response to applicants' submission of a declaration with the signature of an heiress on behalf of a deceased inventor.

BACKGROUND

On 10 November 1999, applicants filed international application PCT/EP99/08702, which claims a priority date of 13 November 1998. A Demand electing the United States was filed on 22 May 2000. Accordingly, the 30 month period for complying with the requirements of 35 U.S.C. 371, expired at midnight on 13 May 2001.

On 07 May 2001, applicants timely filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application as filed as required by 35 U.S.C. 371(c)(2). However, no oath or declaration as required by 35 U.S.C. 371(c)(4) was filed.

On 22 June 2001, the United States Designated/Elected Office (PTO) mailed applicants a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office" (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) and the surcharge for providing the oath or declaration later than 30 months from the priority date were required. Applicants were given a TWO (2) MONTH period from the mail date of the Notification to properly respond, with extensions of time obtainable under 37 C.F.R. 1.136(a).

On 14 August 2001, applicants submitted the instant declaration with the required surcharge under §1.492(e) for late filing. The declaration submitted states that joint inventor

Gerrit P. TOOROP is deceased, and is executed by Anne G. TOOROP as heiress of the deceased. Acceptance of this declaration is being considered under §§1.42 and 1.497.

DISCUSSION

37 C.F.R. §1.42, provides that:

> 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, ... obtain the patent.

37 C.F.R. §1.497(b)(2), as amended effective September 8, 2000, provides that:

> ... If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The identification of Anne G. Toorop as "heiress" is not sufficient to establish that she may make application on behalf of the deceased inventor, as it is not clear whether Ms. Toorop is the sole heir or whether other heirs are required to execute the declaration. Clarification is required. Applicants should also note that execution of the declaration by the heirs is only proper where an administrator or executor has not been appointed, and is not required to be appointed under the applicable law.

CONCLUSION

In view thereof, the declaration is not accepted under 37 CFR §§1.42 and 1.497. The submission is **DISMISSED**, without prejudice.

If reconsideration on the merits of this submission is desired, a proper response must be filed within **TWO MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." No petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Should status under 37 CFR 1.42 not be successfully completed, the international application will be abandoned with respect to the United States of America.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C., 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Nancy Johnson
Petitions Attorney
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-0309
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30 APR 2002

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Oral Cagler
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

In re Application of PAGE, et al. Application No.: 09/831,207 PUT No.: PCT/US99/26050 Int. Filing Date: 04 November 1999 Priority Date: 06 November 1998 Attorney Docket No.: WDF-69436 For: INTEGRATED APPARATUS FOR REMOVING POLLUTANTS FROM A FLUID STREAM IN A LEAN-BURN ENVIRONMENT WITH HEAT RECOVERY	DECISION ON PETITIONS UNDER 37 CFR 1.137(b) AND 37 CFR 1.47(a)

BACKGROUND

On 04 November 1999, applicants filed the international application, which claimed a priority date of 06 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of 19 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 May 2001.

On 04 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by a copy of the International Preliminary Examination Report and a copy of the International Search Report. Applicant did not provide either payment of the full U.S. basic national fee nor an oath or declaration of the inventors.

On 25 May 2001, applicants were mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) notifying applicants that the above-identified application was abandoned as to the United States for failure to provide payment of the full U.S. basic national fee by thirty months from the claimed priority date.

On 06 February 2002, applicant responded with the present petitions. A petition for revival under 37 CFR 1.137(b) and a petition under 37 CFR 1.47(a). Accompanying the petition under 37 CFR 1.47(a) was a declaration for patent application executed by joint-inventor Dr. Bradley L. EDGAR. The declaration for patent application was not executed by joint-inventors Dr. Dorrish L. PAGE and Robert J. MACDONALD, the subjects of the present petition under 37 CFR 1.47(a).

DISCUSSION

A. Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was payment of the full U.S. basic national fee. Applicants have provide said payment with the present petitions.

As to Item (2), applicants have paid the $1280.00 petition fee.

With regard to Item (3), applicants' statement that, "the entire delay in submitting item (1) above, (the basic national fee) from the due date for submitting the item until the filing of this petition, was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Applicant having complied with the above requirements, the petition under 37 CFR 1.137(b) to revive the application is **GRANTED**.

B. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to Items (1) and (3), applicant has provided a check in the amount of $130.00 as payment of the required petition fee. In addition, the petition states the last known addresses of the non-signing inventors.

Regarding Item (4), accompanying the petition is a declaration signed by the remaining inventor on his behalf, and on behalf of the non-signing inventors. Accordingly, Items (1), (3) and (4) have been satisfied.

As to Item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d)

Proof of Unavailability or Refusal states 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." The declarations which accompany the petition seem to indicate that the non-signing inventors were merely provided with a copy of the declaration. There is no indication in the present petition or accompanying papers that applicant has made a bona fide attempt to present Dr. Dorrish L. PAGE and Robert J. MACDONALD with a copy of the application papers, including the specification, claims and drawings as required.

Accordingly, since applicant has failed to show that Dr. Dorrish L. PAGE and Robert J. MACDONALD were provided with a complete set of the application papers and refused to sign the application papers it is not appropriate to accept the declaration at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED**.

As authorized, $130.00 will be deducted from Deposit Account No. 19-1853 as payment of the surcharge for providing an oath or declaration of the inventors later than thirty months from the earliest claimed priority date.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. A proper reply under the renewed petition would be either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(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.

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19 SEP 2002

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In re Application of PAGE, et al. Application No.: 09/831,207 PUT No.: PCT/US99/26050 Int. Filing Date: 04 November 1999 Priority Date: 06 November 1998 Attorney Docket No.: WDF-69436 For: INTEGRATED APPARATUS FOR REMOVING POLLUTANTS FROM A FLUID STREAM IN A LEAN-BURN ENVIRONMENT WITH HEAT RECOVERY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 09 July 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 April 2002, applicant was mailed a decision granting applicant's petition under 37 CFR 1.137(b) to revive the present petition. In addition, the decision dismissed applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 09 July 2002, applicant filed the present renewed petition under 37 CFR 1.47(a). Applicant has certified that the papers were deposited for mailing on 27 June 2002 and are therefore considered timely filed.

DISCUSSION

As detailed in the decision mailed 30 April 2002, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1), (3) and (4).

Regarding applicant's present submission, the declaration of Oral Caglar shows that the

non-signing inventors, Page and MacDonald have been presented with a copy of the application papers and have provided execute declarations to counsel. Applicant has thus satisfied item (2) above. Applicant has now satisfied all four items detailed above.

As such, it is proper to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application will be given an international application filing date of 04 November 1999 and a date of **06 February 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).

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Legal Examiner
PCT Legal Office

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BAKER & BOTTS LLP
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In re Application of
PAEK, Seungyup *et al*
Application No.: 09/831,215
PCT No.: PCT/US99/26127
Int. Filing Date: 05 November 1999
Priority Date: 06 November 1998
Attorney's Docket No.: 32282-PCT-USA
For: IMAGE DESCRIPTION SYSTEM AND METHOD

COMMUNICATION

This communication is in response to the copy of "Communication Requesting Change of Applicant Name" ("Comm.") previously submitted to the International Bureau (IB) on 24 April 2001 and filed with the national stage papers on 04 May 2001.

A review of international application PCT/US99/26127 and IB records verify that Lian Huang was added as an applicant/inventor in the aforementioned international application. However, petitioners' request that applicant Eastman Kodak Corporation and applicant/inventor Charlie Judice be removed as applicant and applicant/inventor respectively was refused because no power of attorney authorizing petitioners to act for either applicant Eastman Kodak Corporation and applicant/inventor Charlie Judice was present in the international application.

Accordingly, Charlie Judice is still listed as an inventor in the above-captioned application. Petitioners must take appropriate action to remove Mr. Judice as an inventor in the above-identified application since petitioners claim that Eastman Kodak Corporation and Charlie Judice were"erroneously added as applicant and applicant/inventor, respectively, upon filing the international application." Comm. at ¶ 1.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) 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 . . . 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(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

An oath or declaration was not included with any of the papers filed. Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

Please direct 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 PCT Legal Office.

Richard Cole
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10 JAN 2003

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BAKER BOTTS
30 Rockefeller Plaza
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In re Application of
PAEK, Seungyup *et al*
U.S. Application No.: 09/831,215
PCT No.: PCT/US99/26127
Int. Filing Date: 05 November 1999
Priority Date: 05 November 1998
Docket No.: 32282-PCT-USA 070050.1164
For: IMAGE DESCRIPTION SYSTEM AND METHOD

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Pursuant to 37 C.F.R. §1.47(a)" ("Pet.") filed on 07 June 2002.

BACKGROUND

On 28 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond.

On 07 June 2002, applicants submitted the instant petition which was accompanied by, *inter alia*, the $130.00 petition fee; a four-month extension and $1,440 extension fee; a declaration signed by three of the seven listed joint inventors; and copies of Federal Express tracking documents.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), applicants state that the last known addresses of the missing joint inventors are:

Chung-Sheng Li, 50 Croton Avenue, Apt 2C,Ossining NY 10562

John R. Smith, 275 W.96th Street, Apt. 15B, New York, NY 10025

Lawrence D. Bergman, 30 Saw Mill River Road, Hawthorne, NY 10532

Atul Puri, 100 Schulta-Middletown, Redbank NJ 07701

This information satisfies item (3).

Regarding item (4), applicants included a Declaration signed by three of the seven listed joint inventors, Seungyup Paek, Ana Benitez, and Shih-Fu Chang. The nonsigning joint inventor's names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has also been satisfied.

However, applicants have not sufficiently met the requirements of item (2).

Applicants' burden in proving that an inventor cannot be located pursuant to item (2) is explained in section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) which states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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 . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.

In the instant petition, applicants state that counsel sent "the Combined Declaration and Power of Attorney document by Federal Express to the missing inventors to their last known address." Pet. at ¶ 2. Applicants included copies of the Federal Express tracking documents with the instant petition as required.

However, it does not appear that Mr. Ragusa has the requisite firsthand knowledge of the facts as required by the MPEP. As stated above, a declaration by a person having firsthand knowledge of the steps taken to locate the nonsigning joint inventors are required. In the petition, counsel claims that "[a]pplicants Seungyup Paek, Ana Benitez, and Shih-Fu Chang are still actively trying to contact the missing

inventors by Internet searches, as well as contacting the missing inventors' last known employers to ascerrtain the whereabouts of the missing inventors." Id. Therefore, an affidavit or declaration by Seungyup Paek, Ana Benitez, and Shih-Fu Chang should be submitted detailing the steps used to locate the four missing joint inventors.

In addition to these declarations, all documentary evidence received in conjunction with the search for the missing nonsigning joint inventors such as paper copies of any internet searches and copies of letters or emails to and from the nonsigning joint inventors' former employer should be provided in any renewed petition.

Item (2) is not satisfied. Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

For the reasons discussed above, the 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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." 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.

James Thomson
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15 AUG 2003

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BAKER BOTTS
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New York, N.Y. 10112-4498

In re Application of
PAEK, Seungyup *et al*
U.S. Application No.: 09/831,215
PCT No.: PCT/US99/26127
Int. Filing Date: 05 November 1999
Priority Date: 05 November 1998
Docket No.: 32282-PCT-USA 070050.1164
For: IMAGE DESCRIPTION SYSTEM AND METHOD

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Response to Decision on Petition Under 37 CFR1.47(a)" filed on 11 July 2003.

BACKGROUND

On 10 January 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because they failed to satisfy item (2) of 37 CFR 1.47(a).

On 11 July 2003, applicants submitted the instant request which was accompanied by, *inter alia*, a four-month extension and fee, and a declaration signed by five of the eight co-inventors.

DISCUSSION

Applicants failed to meet the requirements of item (2) of 37 CFR 1.47(a) in the initial petition filed 07 June 2002. In the renewed petition, applicants submitted declarations signed by the nonsigning co-inventors, Chung-Sheng Li, John R. Smith, Lawrence D. Bergman, Atul Puri and Qian Huang. These declarations are in compliance with 37 CFR 1.497(a) and (b).

However, the declaration submitted 07 June 2002 with the original petition specified the wrong inventive entity as only seven co-inventors were listed, instead of eight. A review of the record verifies that Qian Huang was added as an applicant/inventor in the international application.

The prior decision dated 10 January 2003 erroneously indicated that this declaration was in compliance with 37 CFR 1.497(a) and (b). That statement was incorrect. The declaration filed 07 June 2002 does not properly identify each inventor and is not in compliance with 37 CFR 1.497(a)(3). A new declaration listing the proper

inventive entity and properly executed by co-inventors Seungyup Paek, Ana Benitez and Shih-Fu Chang is required for a grantable petition.

CONCLUSION

For the reason discussed above, applicants' renewed 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. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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21 APR 2004

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In re Application of
PAEK, Seungyup *et al*
U.S. Application No.: 09/831,215
PCT No.: PCT/US99/26127
Int. Filing Date: 05 November 1999
Priority Date: 05 November 1998
Docket No.: 32282-PCT-USA 070050.1164
For: IMAGE DESCRIPTION SYSTEM AND METHOD

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Response to Second Decision on Petition Under 37 CFR1.47(a)" filed on 19 February 2004.

BACKGROUND

On 15 August 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. A new declaration executed by co-inventors Seungyup Paek, Ana Benitez and Shih-Fu Chang was required for a grantable petition.

On 19 February 2004, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, a four-month extension and fee, and a declaration signed by three of the eight co-inventors.

DISCUSSION

In the papers filed 11 July 2003, applicants submitted declarations executed by the five nonsigning joint inventors. The declarations signed by co-inventors, Chung-Sheng Li, John R. Smith, Lawrence D. Bergman, Atul Puri and Qian Huang were in compliance with 37 CFR 1.497(a) and (b).

However, the declaration originally submitted 07 June 2002 and signed by three co-inventors specified the wrong inventive entity as only seven co-inventors were listed, instead of eight. Therefore, this declaration was not in compliance with 37 CFR 1.497(a)(3).

In the renewed petition, applicants have submitted declarations properly executed by the three remaining co-inventors Seungyup Paek, Ana Benitez and Shih-Fu Chang. These declarations are in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 November 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 February 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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11 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
PAEK, Seungyup *et al* :
Application No.: 09/831,215 :
PCT No.: PCT/US99/26127 :
Int. Filing Date: 05 November 1999 : **DECISION**
Priority Date: 06 November 1998 :
Attorney's Docket No.: 32282-PCT-USA :
For: IMAGE DESCRIPTION SYSTEM AND METHOD :

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.28(c)" filed on 26 October 2006.

Applicants state that they "have discovered that the above identified patent application was filed with an erroneous claim of small entity status applicant's status as a small entity was established in error." 37 CFR 1.28(c) states:

> If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section

Applicants' statement is sufficient to meet the requirements of 37 CFR 1.28(c). However, applicants failed to comply with the requirements of 37 CFR 1.28(c)(2).

Applicants included only the total claims fee and multiple dependent claims fee in their itemization of deficiency owed. A review of the fees paid in the application shows that applicant also paid extension fees pursuant to a petition under 37 CFR 1.47(a) on 07 June 2002, 15 July 2003 and 19 February 2004. In addition, the small entity basic national fee of $345.00 was refunded improperly. This fee has been charged to Deposit Account No. 02-4377 as authorized and must be included in the itemization.

Applicants must submit another itemization of the deficiency payment to include the basic national fee and extension of time fees paid within **ONE (1) MONTH** from the date of

mailing of this decision. No extensions of time are allowed pursuant to 37 CFR 1.28(c)(3).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

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09 MAY 2007

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In re Application of
PAEK, Seungyup *et al*
Application No.: 09/831,215
PCT No.: PCT/US99/26127
Int. Filing Date: 05 November 1999
Priority Date: 06 November 1998
Attorney's Docket No.: 070050.1525
For: IMAGE DESCRIPTION SYSTEM AND METHOD

DECISION

This is a decision on the request to remove an inventor in the above-captioned application filed 09 March 2007 which is treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 09 March 2007, applicants filed a petition to remove an inventor pursuant to 37 CFR 1.497(d).

On 08 May 2007, applicant filed via facsimile a statement regarding an assignment in the subject application.

DISCUSSION

Applicants request to remove Charlie Judice as inventor in the subject application.[1]

37 CFR 1.497(d) applies when the inventors in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) 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] The decision dated 21 April 2004 dismissed applicants' petition filed under 37 CFR 1.47 as moot as applicants submitted declarations signed by the missing inventors. However, applicants failed to first remove Charlie Judice as inventor as requested in the communication mailed 02 November 2001.

(1) A statement from each person being added 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(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Charlie Judice who declares that he is not an inventor in the present application and requests to be removed. Mr. Judice declares that the error "occurred without deceptive intention on my part." The processing fee of $130.00 has been paid.

A review of the file record verifies that there is no record as to the existence of an assignee. Applicants also submitted a statement that "[a]pplicants are not aware of any written assignment in this case." Accordingly, it is presumed that no assignee exists. *See* § 201.03 MPEP. (If this presumption is incorrect, applicant should immediately notify this office and provide written consent of the assignee.)

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request to remove Charlie Judice as a joint inventor in the above-captioned application under 37 CFR 1.497(d) is **GRANTED**.

The date of completion of all 35 U.S.C. 371 requirements and date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirement listed on the Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) mailed 05 May 2004 have not changed with the removal of Mr. Judice as an inventor in the present application.

Thus, the Form PCT/DO/EO/903 mailed 05 May 2004 remains effective.

James Thomson

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09 AUG 2006

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New York, NY 10112-4498

In re Application of PAEK et al	:	
U.S. Application No.: 09/831,218	:	
PCT Application No.: PCT/US99/26126	:	
Int. Filing Date: 05 November 1999	:	DECISION
Priority Date Claimed: 06 November 1998	:	
Attorney Docket No.: EF321689368US	:	
For: VIDEO DESCRIPTION SYSTEM AND	:	
METHOD	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47" filed 11 December 2001.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/US99/26126, which claimed priority of an earlier United States application filed 06 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 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 on 06 May 2001.

On 04 May 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 December 2001, applicant filed the present petition under 37 CFR 1.47(a) along with executed declarations.

On 26 December 2001, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

DISCUSSION

A review of the application file reveals that the present petition had not been treated before the Notice of Acceptance was mailed.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declarations filed 11 December 2001 are improper. Specifically, the declarations name an inventive entity different from that shown in the published international application. The DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which states that inventors Alexandros Elefteriadis and Charlie Judice have been removed and that inventors John Smith and Lawrence Bergman have been added. In the absence of a Notification of the Recording of a Change (Form PCT/IB/306), a proper petition under 37 CFR 1.497(d) and the requisite processing fee must be submitted.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Qian Huang cannot be located. The petition states that three attempts were made to contact Huang by postal mail and one attempt was made to reach Huang by telephone. Although it is apparent that the first two letters did not reach Huang because Huang was no longer employed at the delivery address, the petition does not state whether the third letter was successfully delivered. If the third letter was delivered to Huang, it would not be reasonable to assert that Huang cannot be located. Furthermore, the petition does not mention any additional attempts to locate Huang, e.g. by searching telephone directories, by trying to obtain a forwarding address, and by contacting Huang's former co-workers. Thus, it would not be reasonable to conclude at the present time that Huang cannot be found.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 26 December 2001 is hereby VACATED.

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. Extensions of time are available under 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 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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13 NOV 2006

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In re Application of PAEK et al	:	
U.S. Application No.: 09/831,218	:	
PCT Application No.: PCT/US99/26126	:	
Int. Filing Date: 05 November 1999	:	DECISION
Priority Date Claimed: 06 November 1998	:	
Attorney Docket No.: EF321689368US	:	
For: VIDEO DESCRIPTION SYSTEM AND	:	
METHOD	:	

This is in response to applicant's "Petition to Correct Inventorship Pursuant to 37 C.F.R. § 1.497(D)" filed 06 November 2006.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/US99/26126, which claimed priority of an earlier United States application filed 06 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 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 on 06 May 2001.

On 04 May 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 December 2001, applicant filed a petition under 37 CFR 1.47(a) along with executed declarations.

On 26 December 2001, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 09 August 2006, this Office mailed a decision dismissing the 11 December 2001 petition and vacating the 26 December 2001 Notice of Acceptance.

On 06 November 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

As set forth in the decision mailed 09 August 2006, the declarations name an inventive entity different from that shown in the published international application. The DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which states that inventors Alexandros Elefteriadis and Charlie Judice have been removed and that inventors John Smith and Lawrence Bergman have been added.

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 37 CFR 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 from Charlie Judice has been provided. However, the requisite statements from Alexandros Elefteriadis, John Smith, and Lawrence Bergman have not been provided.

With regard to item (2) above, the requisite $130.00 processing fee will be charged to Deposit Account No. 02-4377 as authorized in the transmittal letter filed 11 December 2001.

With regard to item (3) above, written consent of the assignee has not been provided. It is noted that proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) 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. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Applicant is advised that a proper response to the decision mailed 09 August 2006 remains due. As set forth in the 09 August 2006 decision, failure to timely file a proper response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,513,210	2003-02-04	09/831,222	2001-05-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/MikeGonzalez/	Date (YYYY-MM-DD)	2008-01-11
Name	Mike A Gonzalez		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6513210
Issue Date: February 4,2003
Application No. 09831222
Filed: May 8,2001
Attorney Docket No. A-68010-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

In re Patent No. 7,057,013	:	
Issue Date: June 6, 1996	:	
Application No. 09/831,253	:	NOTICE
Filed: June 27, 2001	:	
Attorney Docket No. U013446-9		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

21 AUG 2002

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WASHINGTON, D.C. 20231
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BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W., Suite 300
Washington, D.C. 20001

In re Application of
YAYON, Avner *et al*
Application No.: 09/831,305
PCT No.: PCT/IL99/00602
Int. Filing Date: 08 November 1999
Priority Date: 08 November 1998
Attorney's Docket No.: YAYON 4
For: PHARMACEUTICAL COMPOSITIONS COMPRISING PORPHYRINS . . .

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

The decision is in response to applicants' "PETITION TO VACATE HOLDING OF ABANDONMENT" filed on 05 August 2002. No fee is required.

BACKGROUND

On 15 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 that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. A two-month time period for response was set with extensions of time available.

On 18 July 2001, applicants purportedly filed a document titled "Late Submission of Declaration and/or Translation in Application Filed Under 35 USC §371" which also contained an executed declaration.

On 31 May 2002, a NOTICE OF ABANDONMENT was mailed stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 within the time period set.

On 05 August 2002, applicants filed the instant petition which was accompanied by, *inter alia*, copies of the documents purportedly filed 18 July 2001 and a stamped postcard receipt for the 18 July 2001 documents.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is

requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for documents submitted 18 July 2001. The filing receipt records that a "Missing Parts Response With Decl" was received in the USPTO. The filing receipt is stamped "OIPE JUL 18 2001" across its face. The U.S. application number, attorney docket number and name of the applicants are all listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 18 July 2001.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The NOTICE OF ABANDONMENT mailed 31 May 2002 is hereby **VACATED**.

A review of the declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 November 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **18 July 2001.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/831,309	None	None	None

CONFIRMATION NO.
1979

PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

Date Mailed: May 27, 2004

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c) that was filed on May 27, 2004, express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment is attached/will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-3-06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6961111

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

All corrections approved

FAZLI ERDEM

SPE **Art Unit**

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,961,111

APPLICATION NO.: 09/831,315

ISSUE DATE : November 1, 2005

INVENTOR(S) : Keizaburo KURAMASU, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the front page, column 1, section (75), add inventor --Yutaka Nanno, Takarazuka (JP)--.
On the front page, column 2, section (56), add Other Documents subsection, add citation --Inoue et al. "4.2: Low-Temperature Poly-Si TFT-LCD with Integrated 6-bit Digital Data Drivers," 1996, pages 21-24--.
In the claims:
in claim 2, column 26, line 16, replace "comprising" with --comprises--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

STEPTOE & JOHNSON, LLP
1330 CONNECTICUT AVE., NW
WASHINGTON, DC 20036

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JUN 2 9 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Christopher J. McDonald
HOFFMAN, WASSON & GITLER, PC
2361 Jefferson Davis Highway, Suite 522
Arlington, VA 22202

In re Application of HOURN, Michael *et al* U.S. Application No.: 09/831,355 PCT No.: PCT/AU99/00795 Int. Filing Date: 20 September 1999 Priority Date: 21 September 1998 Attorney Docket No.: A-7491 For: METHOD FOR TREATING PRECIOUS METAL BEARING MINERALS	DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

The "Petition to Revive Unintentionally Abandoned Application" filed 14 May 2001 in the above-captioned application is hereby **GRANTED** as follows:

The basic national fee of $1000.00, an additional claim fee of $300.00, and the petition fee of $1,240.00 have been paid. The $130.00 surcharge fee pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 08-2455 as authorized.

Applicants' statement that "[t]he entire delay between the abandonment of the application and the filing of this Petition was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). No terminal disclaimer is required. Therefore, all of the requirements of 37 CFR 1.137(b) have been satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 20 September 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 May 2001**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Edwin J. Gale
Kirby Eades Gale Baker
Station D
P.O. Box 3432
Ottawa K1P 6N9 CA CANADA

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Amir A. Mirchi et al. :
Application No.: 09/831,375 : **DECISION**
Filed: November 16, 1999 : **GRANTING**
Patent No.: 6,649,040 : **PETITION**
Issued: November 18, 2003 :

This is a decision on the March 9, 2004 petition requesting a replacement Letters Patent ("the March 9, 2004 petition").

The March 9, 2004 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The March 9, 2004 petition is **granted**.

The paper file is being forwarded to Ms. Mary Diggs, Office of Data Management, for issuance of a corrected patent, including the following: (1) mailing of a corrected copy to the patent owner; and (2) correction to the Full Text for U.S. Patent No. 6,649,040 in the USPTO Patent Full-Text and Image Database maintained by the Office.

The Image for U.S. Patent No. 6,649,040 in the USPTO Patent Full-Text and Image Database maintained by the Office will contain the original, incorrectly printed patent and the corrected patent in the form of a Certificate of Correction.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Robert A Clarke

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

Roger D. Emerson
The Goodyear Tire & Rubber Company
1144 East Market Street
Patent Department D 823
Akron, OH 44316-0001

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In re Application of :
Albert J. Yovichin, et al. :
Application No. 09/831,393 :
Filed: August 20, 2001 :
Attorney Docket No. DN1998168US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has shown to the satisfaction of the Commissioner that the delay in submitting a timely reply was unavoidable.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application file is being forwarded to Technology Center 1700.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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OFFICE OF PETITIONS

In re Patent No. 7,006,007	:	
Issue Date: February 28, 2006	:	
Application No. 09/831,527	:	ON PETITION
Filed: July 20, 2001	:	
Attorney Docket No. U – 013451-6	:	

This is a decision on the petition, filed January 30, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The Certificates of Correction Branch is instructed to issue a certificate of correction upon submission of the $100 certificate of correction fee. *No certificate of correction will be issued which sets forth an assignee other than Schneider Electric Danmark A/S, the assignee set forth in the instant request. A copy of this decision* ***must*** *accompany certificate of correction fee.*

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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William Heriot / Martin Baker
42 Digital Dr. #6
Novato, Ca. 94949

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MAY 08 2009

OFFICE OF PETITIONS

In re Patent No. 6,855,296 :
Issue Date: February 15, 2005 :
Application No. 09/831,552 :
Filed: September 10, 2001 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed April 13, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 3 above.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (703) 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

WILLIAM HERIOT
42 Digital Drive #6
Novata, CA. 94949

In re Patent No. 6,855,296	:	
Issue Date: February 15, 2005	:	
Application No. 09/831,552	:	ON PETITION
Filed: September 10, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(b), filed May 29, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

The above identified patent issued on February 15, 2005. The first maintenance fee could have been timely paid during the period from February 15, 2008 through August 11, 2008, or with a late payment surcharge during the period from August 12, 2008 through February 15, 2009. Petitioner files a petition to accept the unintentionally delayed payment of the maintenance fee on April 13, 2009. The petition was dismissed on May 8, 2009. Petitioner now submits a petition to accept unavoidably delayed payment of maintenance fee.

Petitioner indicates that on February 6, 2007, the assignee (Optime Therapeutics) filed for bankruptcy in the United States Bankruptcy Court, Northern District of California, resulting in all assets being frozen. After petitioner filed a motion in bankruptcy court to get access to the files, the motion was granted on March 31, 2009. Petitioner now submits a petition under 37 CFR 1.378(b).

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

37 CFR 1.378(b)(C), requires a showing that the delay in paying the maintenance fee was unavoidable despite reasonable care being taken to ensure that the maintenance fee would be timely paid. The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires *a statement by all persons with direct knowledge of the cause of the delay*, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c) (1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. *See Ray v. Lehman*, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting *In re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff 'd sub nom. Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), *cert. denied*, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a

reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee does not constitute unavoidable delay. *See Patent No. 4,409,763*, supra. *See also* Final Rule entitled "*Final Rules for Patent Maintenance Fees*," published in the *Federal Register* at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the *Official Gazette* at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.

The renewed petition indicates that because of the assignee being in bankruptcy court all assets were frozen and he could not access these funds to pay the maintenance fees. A review of the records indicates that on September 10, 2001, inventors Martin T. Baker and William A. Heriot made an assignment of the instant invention to Optime Therapeutics, Inc. Subsequently, and prior to the issuance of the patent Optime Therapeutics, Inc., made an assignment to William A. Heriot. Hence, at the time the maintenance fees were due, Optime Therapeutics Inc., had no interest in the issued patent. In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonable prudent person. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. The record currently lacks a showing that any steps were put in place by petitioner or anyone else.

As an alternative venue, petitioner should consider a renewed petition under 37 CFR 1.378(c), signed by both inventors accompanied by a request for reconsideration fee under 37 CFR 1.378(e), and the required fee under 37 CFR 1.120(i)(2). The current fees are $400.00 and $1640.00 respectively.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6855296	2005-02-15	09831552	2001-09-10	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William A. Heriot/	Date (YYYY-MM-DD)	2009-12-01
Name	William A. Heriot		

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. 6855296
Issue Date: February 15,2005
Application No. 09831552
Filed: September 10,2001
Attorney Docket No. 020681-000310US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

MAY 17 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

1037BP-1

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.go

RECEIVED
MAY 22 2002
SHERIDAN, ROSS

Robert D. Traver
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of:	:	DECISION ON
RHODES ET AL.	:	PETITION
Application No.: 09/831,579	:	UNDER 37 CFR 1.42
PCT No.: PCT/AU99/00917	:	AND 37 CFR 1.47(a)
Int. Filing Date: 22 October 1999	:	
Attorney's File No.: 1037BP-1	:	
For: BIO-OXIDATION PROCESS AND APPARATUS	:	

This decision is in response to applicant's petition under 37 C.F.R. 1.47(a), filed 21 December 2001, to accept the above-identified application without the signature of co-inventor Richard Winby.

BACKGROUND

On 22 October 1999, applicants filed international application PCT/AU99/00917, which claimed a priority date of 18 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau. A Demand for international preliminary examination, in which the United States was elected, was timely filed on 04 May 2000. Accordingly, the thirty-month period for meeting the requirements for entry into the national stage expired at midnight on 18 May 2001.

On 11 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic filing fee and a FIRST preliminary amendment. Applicants did not submit an oath or declaration of the inventors (35 U.S.C. 371(c)(4)).

On 21 June 2001, the United States Designated/Elected Office (PTO) mailed applicants a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) was required as well as the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)). Applicants were given a TWO (2) MONTH period from the mail date of the Notification to properly respond, with extensions of time obtainable under 37 C.F.R. 1.136(a).

On 21 December 2001, applicants timely filed the instant petition under 37 CFR 1.47(a) which was signed by Robert D. Traver and included a certificate of mailing dated 21 December 2001, a declaration under 37 CFR 1.63 which was unsigned only by co-inventor Winby, declarations in support of the instant petition asserted by Richard Baddeley and Dr. Paul Miller, respectively, a petition for a four month extension of time for reply within the sixth month which ended at midnight of 21 December 2001, the surcharge as required under 37 CFR 1.492(e), and the requisite fee for filing the instant petition.

DISCUSSION

37 CFR 1.42 states:

> *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. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.*

37 CFR 1.497(b)(2) states:

> *If the person making the oath of declaration or any supplemental oath or declaration is not the inventor (37 CFR 1.42. 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.*

Applicants have failed to satisfy the requirements under 37 CFR 1.497(b). The Declaration does not provide the citizenship, residence and mailing address of the legal representative, Mrs. E.A. Winby.

MPEP 409.03(c) states, in part:

> *...the last known address of the legal representative must be given (see MPEP § 409.03(e)).*

Applicants have satisfied the requirement in MPEP § 409.03(e).

37 CFR 1.47(a) states:

> *If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. The oath or declaration in such an application must be accompanied by a petition*

including proof of the pertinent facts, the fee set forth in § 1.17(i) and the last known address of the non-signing inventor. The Patent and Trademark Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to the non-signing inventor at said address and publish notice of the filing of the application in the Official Gazette. The non-signing inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the non-signing joint inventor refuses to execute the application, (3) a statement of the last known address of the non-signing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicants have satisfied items (1) and (3) above.

Regarding item (2) above, MPEP 409.03(d) (August 2001) states in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The supporting documentation submitted with the petition does not provide clear evidence that Mrs. Wimby's conduct constitutes a refusal.

In the declaration of Richard Baddeley, paragraph 5 states that "Mrs. Winby expressed her reluctance to give her signature to the required declaration at that time" and that she "did not make

a specific written or oral refusal." See also paragraph 8 which states that Mrs. Winby has not made an express oral refusal to sign the declaration documents.

In the declaration of Dr. Paul Miller, paragraph 5 states that "Mrs. Winby expressed her reluctance to give her signature to the relevant papers due to the unfortunate experiences with signing documentation related to Mr. Winby's death." See also paragraph 9 which states that "Mrs. Winby. persisted in her reluctance to sign the forms."

Mrs. Winby's "reluctance," as set forth in the supporting declarations, to sign the necessary papers coupled with the supporting declarations showing that Mrs. Winby has not given an express oral or written refusal to accept the papers and sign the papers does not clearly constitute a "refusal" as set forth in MPEP 409.03(d).

Regarding item (4) above, the declaration is defective for reasons discussed above.

In that items (2) and (4) have not been satisfied, the present petition under 37 CFR 1.47(a) may not properly be granted at this time.

CONCLUSION

For the reasons above, the petitions under 37 CFR 1.42 and 37 CFR 1.47(a) are both **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to timely submit the proper reply will result in ABANDONMENT. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner of Patents, Box PCT, Washington, D.C., 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Gregory Vidovich
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-1315
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

10 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Robert D. Traver
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of
RHODES *et al*
U.S. Application No.: 09/831,579
PCT No.: PCT/AU99/00917
Int. Filing Date: 22 October 1999
Priority Date: 18 November 1998
Attorney Docket No.: 1037BP-1
For: BIO-OXIDATION PROCESS AND APPARATUS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. 1.47(a)" ("Ren.Pet.") submitted 02 July 2002.

BACKGROUND

On 17 May 2002, a decision dismissing applicants' petition was mailed because applicants failed to meet items (2) and (4) of 37 CFR 1.47(a).

On 02 July 2002, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a new declaration.

DISCUSSION

The decision dated 17 May 2002 declared that applicants failed to satisfy item (2) of 37 CFR 1.47(a). Specifically, the decision concluded that "[t]he supporting documentation submitted with the petition does not provide clear evidence that Mrs. Winby's conduct constitutes a refusal." Further, the decision clarified that "Mrs. Winby's "reluctance," as set forth in the supporting declaration, to sign the necessary papers coupled with the supporting declarations showing that Mrs. Winby has not given an express oral or written refusal to accept the papers and sign the papers does not clearly constitute a "refusal" as set forth in MPEP 409.03(d).

In this renewed petition, applicants argue that the conduct of Mrs. Winby constitutes a refusal to sign the documents based on the facts listed in the declaration of Richard H. Baddeley at page 2, numbered 9(a)-(d). Ren.Pet. at ¶ 4. Applicants assert that "[i]t was not the original expressions of reluctance to sign the documents noted by the PCT Legal Office, but these repeated expressions followed by her failure to sign and return the documents when presented with the application papers and sufficient time to examine the documents and respond by returning the signed

documents." Id. at ¶ 6. Applicants base their conclusion on guidance provided in section 409.03(d) of the MPEP which states, in part:

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The documentary and declaratory evidence of Mr. Baddeley and Dr. Miller provided in the initial petition has been reviewed *de novo* concentrating on the overall behavior of Mrs. Winby and how this conduct constitutes a refusal pursuant to the regulations above.

After review of all pertinent documents, it is concluded that the conduct of Mrs. Winby constitutes a refusal to join as outlined in the MPEP. Item (2) of 37 CFR 1.47(a) is now satisfied.

The prior decision also stated that applicants failed to satisfy item (4) of 37 CFR 1.47(a) because the declaration submitted did not comply with the requirements of 37 CFR 1.497(a) and (b). Specifically, the declaration did not provide the citizenship, residence and mailing address of the legal representative, Mrs. E.A. Winby.

In the renewed petition, applicants submitted a declaration signed by two of the three listed co-inventors. The citizenship of the deceased co-inventor is listed as required by 37 CFR 1.497(a)(3). The nonsigning legal representive's name, residence, post office address and citizenship are also typed on the declaration pursuant to 37 CFR 1.497(b)(2). This declaration satisfies the requirements of section 409.03(a) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has now been satisfied.

Accordingly, all the requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The papers have also been **ACCEPTED** pursuant to 37 CFR 1.42.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 22 October 1999 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 02 July 2002.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

NOV 0 2 2001

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Commissioner for Patents
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Washington, D.C. 20231
www.uspto.gov

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of NAKADA et al	:	
U.S. Application No.: 09/831,598	:	
Int. Application No.: PCT/JP99/06255	:	COMMUNICATION
Int. Filing Date: 10 November 1999	:	
Priority Date: 13 November 1998	:	
Attorney Docket No.: 0020-4863P	:	
For: AZEOTROPIC COMPOSITION....	:	

This is in response to applicants' "Letter Submitting Additional Documents for Entering National Phase For a PCT Application" filed 06 June 2001 and "Letter" filed 17 July 2001.

BACKGROUND

On 10 November 1999, applicants filed international application PCT/JP99/06255, which claimed priority of an earlier Japan application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 June 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 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicants 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 06 June 2001, applicants filed a letter which states that it is accompanied by an executed declaration.

On 06 July 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 17 July 2001, applicants filed a letter which states that it is accompanied by a copy of the declaration purportedly filed on 06 June 2001.

DISCUSSION

A review of the application file indicates the absence of any declaration filed on 06 June 2001. The declaration filed 17 July 2001 is in compliance with 37 CFR 1.497 and thus is a proper response to the Notification of Missing Requirements mailed 06 July 2001.

CONCLUSION

Based on the 17 July 2001 filing date of the declaration, the application has a date under 35 U.S.C. 371 of 17 July 2001. If applicants believe they are entitled to an earlier date, a response to this communication must be filed within TWO (2) MONTHS from the mail date of this letter. A proper response would be a petition under 37 CFR 1.181 to treat the declaration as having been filed on 06 June 2001 along with a copy of a stamped return postcard receipt. No petition fee is due.

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

DEC 19 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of NAKADA et al	:	
U.S. Application No.: 09/831,598	:	
Int. Application No.: PCT/JP99/06255	:	COMMUNICATION
Int. Filing Date: 10 November 1999	:	
Priority Date: 13 November 1998	:	
Attorney Docket No.: 0020-4863P	:	
For: AZEOTROPIC COMPOSITION....	:	

This is in response to applicants' "Petition Under 37 C.F.R. 1.181 Requesting Acknowledgment of Earlier Declaration Filing Date" filed 04 December 2001.

BACKGROUND

On 10 November 1999, applicants filed international application PCT/JP99/06255, which claimed priority of an earlier Japan application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 June 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 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicants 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 06 June 2001, applicants filed a letter which states that it is accompanied by an executed declaration.

On 06 July 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 17 July 2001, applicants filed a letter which states that it is accompanied by a copy of the declaration purportedly filed on 06 June 2001.

On 02 November 2001, this Office mailed a communication which stated that the declaration purportedly filed 06 June 2001 is not present in the application file.

On 04 December 2001, applicants filed the present petition along with a copy of a return postcard receipt which lists an executed declaration in its itemized contents and bears a USPTO date stamp of 06 June 2001.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 06 June 2001. Specifically, the copy of the return postcard, which includes an "Executed Declaration" in its itemized contents and which bears a USPTO date stamp of 06 June 2001, serves as *prima facie* evidence that the declaration was received by the USPTO on 06 June 2001.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date of 10 November 1999 and a date under 35 U.S.C. 371 of 06 June 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

JC20 Rec'd PCT/PTO 20 MAR 2002

PCT

PATENT
0020-4863P

#12

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IN THE U.S. PATENT AND TRADEMARK OFFICE

APPLICANT:	NAKADA, Tatsuo et al.	Conf. No.:	5716
SERIAL NO.:	09/831,598	GROUP:	Unassigned
FILED:	May 11, 2001	EXAMINER:	Unassigned
FOR:	AZEOTROPIC COMPOSITION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND 1,1,1-TRIFLUORO-3-CHLORO-2-PROPENE PROCESS OF SEPARATION		

OIPE JC10
MAR 20 2002
PATENT & TRADEMARK OFFICE

SECOND PETITION UNDER 37 C.F.R. 1.181 REQUESTING ACKNOWLEDGMENT OF EARLIER DECLARATION FILING DATE

Honorable Commissioner of Patents
Washington, D.C. 20231

March 20, 2002

Sir:

This is a Petition under 37 C.F.R. § 1.181 to correct the records of the present application to correctly indicate that the present application has a 35 U.S.C. § 371 requirement receipt date of June 6, 2001, as well as a request to confirm that the present application has a priority date of November 13, 1998 (11/13/1998).

First, enclosed herewith is a USPTO Communication dated November 2, 2001 that issued in connection with this application and states that if an appropriate Petition is filed submitting a copy of the postcard receipt confirming the earlier filing of the Declaration/Power of Attorney form on June 6, 2001, then this date would be inserted into the official records of the U.S.P.T.O.

Second, enclosed is a copy of a Petition filed on December 4, 2001, submitting the postcard receipt such that the records of the U.S.P.T.O. should have been corrected to indicate the 371 date as being June 6, 2001.

Third, enclosed is a copy of a Notice of Acceptance of Application dated January 15, 2002 that still indicates the incorrect 371 receipt date of July 17, 2001.

Fourth, enclosed is a copy of a Request for a Corrected Notification of Acceptance dated February 11, 2002 that again requests that the 371 date be corrected to June 6, 2001.

It is additionally requested that the Notice of Acceptance be corrected to indicate that the Priority Date is --11/13/98— that is simply missing from this Notice.

It appears that the above-requested corrections to the record are very clearly supported by the record and should be accepted.

If any additional questions arise concerning these matters, please contact Applicants' representative, Andrew D. Meikle, in the Washington Metropolitan area at the telephone number listed below.

It is submitted that no fees are required for the filing of this Petition, since these errors all occurred on behalf of the mistakes by the U.S.P.T.O.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Andrew D. Meikle #36,623

Andrew D. Meikle
Reg. No. 32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ADM:bmp

Enclosures: USPTO Communication of November 2, 2001
Stamped postcard return receipt dated June 6, 2001
Notice of Acceptance of January 15, 2002
Request for Corrected Notice of Acceptance
Dated February 11, 2002
First Petition Requesting Acknowledgement of
Earlier Filing Date dated December 4, 2001

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Petition
1-2-02

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of NAKADA et al	:	
U.S. Application No.: 09/831,598	:	
Int. Application No.: PCT/JP99/06255	:	COMMUNICATION
Int. Filing Date: 10 November 1999	:	
Priority Date: 13 November 1998	:	
Attorney Docket No.: 0020-4863P	:	
For: AZEOTROPIC COMPOSITION....	:	

OIPE JC
MAR 20 2002
PATENT & TRADEMARK OFFICE

This is in response to applicants' "Letter Submitting Additional Documents for Entering National Phase For a PCT Application" filed 06 June 2001 and "Letter" filed 17 July 2001.

BACKGROUND

On 10 November 1999, applicants filed international application PCT/JP99/06255, which claimed priority of an earlier Japan application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 June 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 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicants 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 06 June 2001, applicants filed a letter which states that it is accompanied by an executed declaration.

On 06 July 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 17 July 2001, applicants filed a letter which states that it is accompanied by a copy of the declaration purportedly filed on 06 June 2001.

DISCUSSION

A review of the application file indicates the absence of any declaration filed on 06 June 2001. The declaration filed 17 July 2001 is in compliance with 37 CFR 1.497 and thus is a proper response to the Notification of Missing Requirements mailed 06 July 2001.

CONCLUSION

Based on the 17 July 2001 filing date of the declaration, the application has a date under 35 U.S.C. 371 of 17 July 2001. If applicants believe they are entitled to an earlier date, a response to this communication must be filed within TWO (2) MONTHS from the mail date of this letter. A proper response would be a petition under 37 CFR 1.181 to treat the declaration as having been filed on 06 June 2001 along with a copy of a stamped return postcard receipt. No petition fee is due.

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

Papers Filed herewith on: June 6, 2001 5

DOCKET NO.: C020-4863P ATTY.: ADM

APPLICANT(S): NAKADA, Tatsuo et al.

APPLN. NO: 09/831,598 FILED: MAY 11, 2001

PAT NO.:

- ☐ New Application with Transmittal Letter
- ☐ Utility ☐ Design ☐ CIP ☐ PCT ☐ Provisional
- ☐ Filing Under 37 CFR 1.53(b) ☐ CONT ☐ DIV
- ☐ Filing Under 37 CFR 1.53(d) (CPA)
- ☐ Filing Under 37 CFR 1.114(RCE)
- ☐ Specification Consisting of: _____ pages
- ☐ Combined Declaration & Power of Attorney
- ☐ Assignment / Cover Letter
- ☐ Letter to Official Draftsman
- ☐ Drawings ___ Sheets ☐ Formal ☐ Informal ☐ Red-Ink
- ☑ Completion of Filing Requirements, ~~PCT/DO/EO/905~~ or Formalities Letter and Executed Declaration
- ☐ Priority Document(s) / Cover Letter, No. Doc. _____
- ☐ Amendment: _____
  - ☐ Transmtl Ltr ☐ Large Entity ☐ Small Entity
- ☐ Response _____
- ☐ Information Discl Stmnt. PTO-1449(s) _____ ref(s)
- ☐ Notice of Appeal ☐ Appeal Brief
- ☐ Issue Fee Transmittal
- ☒ FEES: _____ prepaid 5/11/01
- ☐ Letter: _____
- ☐ Other: _____

Receipt is hereby acknowledged of the papers filed as indicated in connection with the above identified case.
COMMISSIONER OF PATENTS AND TRADEMARKS

Due Date: July 11, 2001

Handcarry: _____

DOCKET NO. C020-4863P

OIPE JC88 JUN 06 2001 PATENT & TRADEMARK OFFICE

Papers Filed herewith on: June 6, 2001 4/9

DOCKET NO.: C020-4863P ATTY.: ADM

APPLICANT(S): NAKADA, Tatsuo et al.

APPLN. NO: 09/831,598 FILED: MAY 11, 2001

PAT NO.:

- ☐ New Application with Transmittal Letter
- ☐ Utility ☐ Design ☐ CIP ☐ PCT ☐ Provisional
- ☐ Filing Under 37 CFR 1.53(b) ☐ CONT ☐ DIV
- ☐ Filing Under 37 CFR 1.53(d) (CPA)
- ☐ Filing Under 37 CFR 1.114(RCE)
- ☐ Specification Consisting of: _____ pages
- ☐ Combined Declaration & Power of Attorney
- ☒ Assignment / Cover Letter
- ☐ Letter to Official Draftsman
- ☐ Drawings ___ Sheets ☐ Formal ☐ Informal ☐ Red-Ink
- ☐ Completion of Filing Requirements, PCT/DO/EO/905 or Formalities Letter and Executed Declaration
- ☐ Priority Document(s) / Cover Letter, No. Doc. _____
- ☐ Amendment: _____
  - ☐ Transmtl Ltr ☐ Large Entity ☐ Small Entity
- ☐ Response _____
- ☐ Information Discl Stmnt. PTO-1449(s) _____ ref(s)
- ☐ Notice of Appeal ☐ Appeal Brief
- ☐ Issue Fee Transmittal
- ☒ FEES: 40.00
- ☐ Letter: _____
- ☐ Other: _____

Receipt is hereby acknowledged of the papers filed as indicated in connection with the above identified case.
COMMISSIONER OF PATENTS AND TRADEMARKS

Due Date: _____

Handcarry: _____

DOCKET NO. C020-4863P

OIPE JC88 JUN 06 2001 PATENT & TRADEMARK OFFICE

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BOX PCT
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0020-4863P

IN THE U.S. PATENT AND TRADEMARK OFFICE

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APPLICANT:	NAKADA Tatsuo et al.
INTERNATIONAL APPL. NO.:	PCT/JP99/06255
APPL. NO.:	09/831,598
Conf.:	UNASSIGNED
FILED:	May 11, 2001
FOR:	AZEOTROPIC COMPOSITION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND 1,1,1,-TRIFLUORO-3-CHLORO-2-PROPENE, PROCESS OF SEPARATION AND PURIFICATION USING THE SAME, AND PROCESS FOR PRODUCTION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND PROCESS FOR PRODUCTION OF 1,1,1-TRIFLUORO-3-CHLORO-2-PROPENE

OIPE JC10
MAR 2 0 2002
PATENT & TRADEMARK OFFICE

LETTER SUBMITTING ADDITIONAL DOCUMENTS FOR
ENTERING NATIONAL PHASE FOR A PCT APPLICATION

BOX PCT
Assistant Commissioner for Patents
Washington, DC 20231

June 6, 2001

Sir:

Under the provisions of 37 C.F.R. § 1.494 or 37 C.F.R. § 1.495, attached hereto are the following additional items necessary for entering the national phase in connection with the above-identified PCT international application.

☒ Executed Declaration and Power of Attorney.

☒ Original ☐ Photocopy

☐ The specification attached to the executed Declaration

and Power of Attorney is a true copy of the specification which was filed in the U.S. Patent and Trademark Office on May 11, 2001, including any amendments thereto (if applicable) filed on even date therewith.

☒ The undersigned hereby declares that "Attorney Docket No. 0020-4863P" on page 1 of the attached inventors' Declaration corresponds to Appl. No. 09/831,598 filed on May 11, 2001 entitled "AZEOTROPIC COMPOSITION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND 1,1,1,-TRIFLUORO-3-CHLORO-2-PROPENE, PROCESS OF SEPARATION AND PURIFICATION USING THE SAME, AND PROCESS FOR PRODUCTION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND PROCESS FOR PRODUCTION OF 1,1,1-TRIFLUORO-3-CHLORO-2-PROPENE."

☐ English language specification, claims, and Abstract with ( ) sheets of drawings.

☐ Applicant claims small entity status under 37 C.F.R. § 1.27.

☐ Attached is a copy of Form PCT/DO/EO/905.

☐ _____

_____

☒ No extension fee is required because the undersigned has not yet received the Notification of Missing Requirements (Form PCT/DO/EO/905). However, if for some reason it is determined that an extension of time is necessary, applicant hereby respectfully petitions for an extension of time for the

filing of the present paper in accordance with the provisions of 37 C.F.R. § 1.136 and 37 C.F.R. § 1.17.

☐ Applicant(s) hereby respectfully petitions for ( ) month(s) extension of time for the filing of the present paper in accordance with the provisions of 37 C.F.R. § 1.136 and 37 C.F.R. § 1.17. The required fee of $0.00 is attached hereto.

The Government Filing Surcharge in the amount of $130.00 in accordance with 37 C.F.R. §§ 1.494 and 1.492 was previously paid for concurrently with the filing of the application on May 11, 2001.

☒ Submitted concurrently herewith **under separate cover** for recording is an Assignment.

☐ A check in the amount of $0.00 to cover the above-mentioned fees is enclosed.

☐ A Fee of $0.00 to cover the increase in fees of the filing Surcharge is enclosed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By _____
Andrew D. Meikle, #32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ADM/cng
0020-4863P

Attachments

(Rev. 01/22/01)

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PATENT
00020-4863P

IN THE U.S. PATENT AND TRADEMARK OFFICE

APPLICANT:	Tatsuo NAKADA et al.	Conf. No.:	
SERIAL NO.:	09/831,598	GROUP:	Unassigned
FILED:	May 11, 2001	EXAMINER:	Unassigned
FOR:	AZEOTROPIC COMPOSITION OF 1,1,1,3,3-PENTAFLUOROPROPANE AND 1,1,1-TRIFLUORO-3-CHLORO-2-PROPENE PROCESS OF SEPARATION		

OIPE JC10
MAR 2 0 2002
PATENT & TRADEMARK OFFICE

PETITION UNDER 37 C.F.R. 1.181 REQUESTING ACKNOWLEDGMENT OF EARLIER DECLARATION FILING DATE

Honorable Commissioner of Patents
Washington, D.C. 20231

December 4, 2001

Sir:

This is a Petition under 37 C.F.R. § 1.181 requesting that the USPTO acknowledge that the Declaration/Power of Attorney form signed by the Inventors was filed on June 6, 2001.

A USPTO Communication dated November 2, 2001 (issued by Mr. Bryan Tung of the PCT Legal Office) (copy enclosed) states that upon the filing of a Petition under 37 C.F.R. § 1.181 submitting a copy of the stamped return postcard receipt for filing the Declaration/Power of Attorney form on June 6, 2001, the USPTO will reconsider changing the presently acknowledged filing date of the Declaration from July 17, 2001 to June 6, 2001. In accordance with this Communication, enclosed is a copy of the stamped return postcard receipt which indicates that along with the Letter filed June 6, 2001 (copy enclosed), the "Executed Declaration" was also filed. Therefore, it is requested that the USPTO issue an appropriate Communication confirming that the acknowledged filing

date of the Declaration will be changed in the official records to June 6, 2001.

If any additional questions arise concerning these matters, please contact Applicants' representative, Andrew D. Meikle, in the Washington Metropolitan area at the telephone number listed below.

No fees are required for the filing of this Petition as noted at page 2 of the USPTO Communication dated November 2, 2001.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By_____

Andrew D. Meikle
Reg. No. 32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ADM/bsh
enclosures: USPTO Communication of November 2, 2001
Letter filed June 6, 2001
Stamped postcard return receipt dated June 6, 2001

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REVIEWED BY
DOCKETING
1-23-02

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/831,598	Tatsuo Nakada	0020-4863P

INTERNATIONAL APPLICATION NO.
PCT/JP99/06255

I.A. FILING DATE	PRIORITY DATE
11/10/1999	

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OIPE JC10
MAR 2 0 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5716

371 ACCEPTANCE LETTER

OC000000007297579

Date Mailed: 01/15/2002

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.494 OR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated Office (37 CFR 1.494) , has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

07/17/2001	07/17/2001
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF RECEIPT OF ALL 35 U.S.C. REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- U.S. Basic National Fee
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

DARRELL C COTTMAN
Telephone: (703) 305-3693

PART 1 - ATTORNEY/APPLICANT COPY

0020-4863P

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: TATSUO NAKADA et al

Serial No.: 09/831,598 Group No.:

Filed: JUNE 6, 2001 Examiner:

OIPE JC10
MAR 2 0 2002
PATENT & TRADEMARK OFFICE

For: AZEOTROPIC COMPOSITION OF 1,1,1,3,3-PENTAFLUOROPAN AND 1,1,1-TRIFORO-3-CHLORO-2 PROPENE PROCESS OF SEPARATION

REQUEST FOR A CORRECTED NOTIFICATION OF ACCEPTANCE

Honorable Commissioner of Patents
Washington, D.C. 20231
and Trademarks

FEB 11 2002

Sir:

Attached hereto is the Notification of Acceptance in connection with the above-identified application.

THE FOLLOWING CORRECTION(S) ARE RESPECTFULLY REQUESTED:

DATE OF RECEIPT OF ALL 35 U.S.C. 371 REQUIREMENTS --

Change From: "JULY 17, 2001"

To: --JUNE 6, 2001--

DATE OF RECEIPT OF 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) REQUIREMENTS-

Change From: "JULY 17, 2001—

To: --JUNE 6, 2001--

It is respectfully requested that the United States Patent and Trademark Office forward a new Notification of Acceptance to the undersigned attorney showing the correction(s) as listed on the enclosed photocopy of our Postcard.

09/831,598

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. 1.16 or under 37 C.F.R. 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: _____

Andrew D. Meikle
Reg. No. 32,868

P.O. Box 747
Falls Church, VA 22040-0747

Attachment
ADM/per
(703)205-8000

UNITED STATES 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 11 2005

#19

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:
Tatsuo Nakada et al	:
Serial No.: 09/831,598	: PETITION DECISION
Filed: June 6, 2001	:
Attorney Docket No.: 0020-4863	:

This is in response to the petition under 37 CFR 1.181, filed June 15, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on November 4, 2003, setting a three month shortened statutory period for reply. Applicants replied on February 4, 2004. A Notice of Abandonment was mailed to applicants on June 3, 2004, when the reply was not timely correlated with the file. The reply has now been correlated with the file. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

for Bruce M. Kisliuk
Director, Technology Center 1600

08 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jason I. Garbell
Novozymes North America
500 Fifth Avenue, Suite 1600
New York, NY 10110

In re Application of	:	
Nielsen et al.	:	
Application No. 09/831,656	:	DECISION
PCT No.: PCT/DK99/00624	:	
Int. Filing Date: 12 November 1999	:	ON
Priority Date: 12 November 1998	:	
Atty. Docket No.: 5753.204-US	:	PETITION
For: Transgenic Plant Expressing	:	
Maltogenic Alpha-Amylase	:	

This is in response to the "Petition Under 37 CFR 1.53" filed on 02 February 2005, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed on 12 November 1999, claimed an earliest priority date of 12 November 1998, and designated the United States. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 25 May 2000. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 May 2001 (since 12 May 2001 was a Saturday). On 11 May 2001, applicants filed *inter alia* the basic national fee.

On 21 June 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) and a Notification To Comply... (Form PCT/DO/EO/920) were mailed to applicants, indicating that "the application fails to comply with the requirements of 37 CFR 1.821 - 1.825" and requiring an initial or substitute paper copy or compact disk of the "Sequence Listing," as well as an amendment directing its entry into the specification.

On 23 August 2001, applicants filed a response.

On 19 October 2001, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is "09/02/2001."

On 02 February 2005, applicants filed the instant petition.

DISCUSSION

BEST AVAILABLE COPY

Petitioner requests that the USPTO "accord the filing date of the above-captioned application as the date of deposit of the application of May 11, 2001," arguing that

> This application was filed under 35 U.S.C. 371 on May 11, 2001. All the requirements necessary for obtaining a filing date were complied with as of filing. As indicated in the cover sheet, a copy of the international application (PCT/DK99/00624) was communicated by the International Bureau on June 2, 2001. The international application contained a paper copy of the Sequence Listing. As all requirements were met at filing, the Application should have been accorded the filing date as of the date of deposit of May 11, 2001. However, the USPTO has mistakenly accorded a filing date of September 2, 2001, and appropriate correction is therefor requested.

Review of the application history reveals that applicants satisfied the requirements of 35 U.S.C. 371(c)(1), (2) and (4) on 11 May 2001. Therefore, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 19 October 2001 and the filing receipt were in error, and they are hereby **VACATED**.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**, for the reasons described *supra*.

This application is being returned to the National Stage Processing Branch for further processing consistent with this decision, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) and a new filing receipt reflecting a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date and, on the filing receipt, a "filing date," of **11 May 2001**.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

09/831656
JC18 Rec'd PCT/PTO 11 MAY 2001

Attorney Docket No.: 5753.204-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371

Box PCT
Commissioner for Patents
Washington, DC 20231

Sir:

This is a request for filing a patent application under 35 U.S.C. 371 of the international application identified below:

INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED
PCT/DK99/00624	November 12, 1999	November 12, 1998

APPLICANT(S)/INVENTOR(S)

Given Name (First and middle (if any))	Family Name or Surname	Residence (City and Either State or Foreign Country)
1. Jack Bech 2. Søren	1. Nielsen 2. Kjærulff	1. DK-2900 Hellerup, Denmark 2. DK-2720 Vanløse, Denmark

TITLE OF THE INVENTION

Transgenic Plant Expressing Maltogenic Alpha-Amylase

1. This is a first submission of items concerning a filing under 35 U.S.C. 371
2. This is an express request to begin national examination procedures (35 U.S.C. 371(f)).
3. The US has been elected by the expiration of 19 months from the priority date (Article 31).
4. A copy of the International Application as filed (35 U.S.C. 371(c)(2)) has been communicated by the International Bureau on June 2, 2001.
5. An oath or declaration of the inventors is submitted herewith.
6. An Assignment and Recordation Form Cover Sheet are submitted herewith.
7. A Preliminary Amendment is submitted herewith.
8. The assignee of the present application is:

   Novozymes A/S
   Krogshoejvej 36
   DK-2880 Bagsvaerd
   Denmark

09/831656
JC16 Rec'd PCT/PTO 11 MAY 2001

Applicants request that the assignee information be included in the published patent application.

9. Direct all correspondence to Customer Number 25908:

PATENT TRADEMARK OFFICE

25908

10. The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):

Search Report has been prepared by the EPO or JPO	$ 860
CLAIMS FEE	
Total Claims: 20- 20 = 0 x 18 =	$ 0
Independent Claims: 6 - 3 = 3 x 80 =	$ 240
Total Claims Fee:	$ 240
FEE FOR RECORDING ASSIGNMENT	$ 40
TOTAL NATIONAL FEE	$1,140

11. Please charge the required fee, estimated to be $1,140, to Novozymes North America, Inc., Deposit Account No. 50-1701. A duplicate of this sheet is enclosed.

Respectfully submitted,

Date: May 11, 2001

Jason I. Garbell, Reg. No. 44,116
Novozymes North America, Inc.
405 Lexington Avenue, Suite 6400
New York, NY 10174-6401
(212) 867-0123

09831656.051101

PCT

WORLD INTELLECTUAL PROPERTY ORGANIZATION
International Bureau

INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(51) International Patent Classification 7 : C12N 15/82, 15/55, 5/10, A01H 5/00

A1

(11) International Publication Number: WO 00/29591

(43) International Publication Date: 25 May 2000 (25.05.00)

(21) International Application Number: PCT/DK99/00624

(22) International Filing Date: 12 November 1999 (12.11.99)

(30) Priority Data:
PA 1998 01478 12 November 1998 (12.11.98) DK
60/123,643 10 March 1999 (10.03.99) US

(71) Applicant *(for all designated States except US)*: NOVO NORDISK A/S [DK/DK]; Novo Allé, DK-2880 Bagsværd (DK).

(72) Inventors; and
(75) Inventors/Applicants *(for US only)*: NIELSEN, Jack, Bech [DK/DK]; Ole Olsens Allé 12, DK-2900 Hellerup (DK). KJÆRULFF, Søren [DK/DK]; Kongsdalsvej 47, DK-2720 Vanløse (DK).

(74) Common Representative: NOVO NORDISK A/S; Corporate Patents, Novo Alle, DK-2880 Bagsværd (DK).

(81) Designated States: AE, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CR, CU, CZ, DE, DK, DM, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW, ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Published
With international search report.
Before the expiration of the time limit for amending the claims and to be republished in the event of the receipt of amendments.

(54) Title: TRANSGENIC PLANT EXPRESSING MALTOGENIC ALPHA-AMYLASE

(57) Abstract

A transgenic plant cell expressing a maltogenic amylase (such as Novamyl®) or a beta-amylase; a transgenic plant regenerated from said cell; seeds generated from such plant where said seeds comprise a maltogenic amylase or a beta-amylase and the use of said seeds, optionally in ground form, for catalyzing an industrial process, such as e.g. in baking. The maltogenic amylase providing an anti staling effect in bread produced from the seeds in question.

UNITED STATES PATENT AND TRADEMARK OFFICE

09/831656

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.

09/831,656 NIELSEN

INTERNATIONAL APPLICATION NO. 3 204-US

5611

I.A. FILING DATE PRIORITY DATE

JASON I GARBELL
NOVOZYMES NORTH AMERICA
405 LEXINGTON AVENUE
SUITE 6400

DATE MAILED 2/99 11/12/98

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☑ an Elected Office (37 CFR 1.495):

- ☑ U.S. Basic National Fee.
- ☑ Copy of the international application.
- ☑ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments.
- ☑ Priority Document.
- ☑ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.
- ☐ Indication of Small Entity Status.
- ☐ Translation of the international application into English.
- ☐ Translation of Article 19 amendments into English.
- ☑ Other: 306, Annexes are entered.

2. ☑ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee.
- ☐ Copy of the international application.

3. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the international application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☑ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes MUST be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875 ☑ PCT/DO/EO/920

Kaye Baltimore
National Stage Processing
(733) 306-3035

FORM PCT/DO/EO/905 (March 2001) Telephone:

UNITED STATES PATENT AND TRADEMARK OFFICE

09/831656

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/831,656		NIELSEN	J 5753.204-US

5611

JASON I GARBELL
NOVOZYMES NORTH AMERICA
405 LEXINGTON AVENUE
SUITE 6400
NEW YORK NY 10174-6401

INTERNATIONAL APPLICATION NO.
PCT/DK99/00624

I.A. FILING DATE	PRIORITY DATE
11/12/99	11/12/98

DATE MAILED: 06/21/01

NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant has submitted papers under 35 U.S.C. 371 to enter the national stage in the United States of America. The items indicated below, however, are missing. The period within which to correct the deficiency noted below and avoid abandonment is set forth in the accompanying Notification.

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):

- [x] The application fails to comply with the requirements of 37 CFR 1.821-1.825.
- [ ] This application does not contain, a "Sequence Listing" as a separate part of the disclosure on paper copy or compact disc, as required by 37 CFR 1.821(c).
- [ ] A copy of the "Sequence Listing" in computer readable format has not been submitted as required by 37 CFR 1.821(e).
- [ ] A copy of the "Sequence Listing" in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."
- [ ] The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
- [ ] The paper copy or compact disc of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).
- [ ] Other:_____

APPLICANT MUST PROVIDE:

- [ ] An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- [x] An initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification.
- [ ] A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

FOR QUESTIONS REGARDING COMPLIANCE WITH THESE REQUIREMENTS, PLEASE CALL:

(703) 308-4216, for Rules interpretation,
(703) 308-4212, for CRF submission help,
(703) 287-0200, for PatentIn software help.

Telephone: Kaye Baltimore
National Stage Processing
(703) 308-[illegible]

FORM PCT/DO/EO/920 (March 2001)

Rec'd PCT/PTO 23 AUG 2001
09/831656

Attorney Docket No.: 5753.204-US PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Nielsen et al. Confirmation No:

Serial No.: 09/831,656 Group Art Unit: To Be Assigned

Filed: May 11, 2001 Examiner: To Be Assigned

For: Transgenic Plant Expressing Maltogenic Alpha-Amylase

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

Box PCT
Commissioner for Patents
Washington, DC 20231

Sir:

I hereby certify that the attached correspondence comprising:

2. Response to Notice to Comply with Sequence Rules
3. Sequence Listing
4. Copy of Notice to Comply with Sequence Rules
5. Disk Containing Sequence Listing

is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Box PCT
Commissioner for Patents
Washington, DC 20231

on August 21, 2001.

Kelley O'Patry
(name of person mailing paper)

K. O'Pa
(signature of person mailing paper)

[x] Commissioner For Patents, Box PCT, United States Patent and Trademark Office, Washington, D.C. 20231, www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/831,656	Jack Bech Nielsen	5753.204-US

INTERNATIONAL APPLICATION NO.
PCT/DK99/00624

I.A. FILING DATE	PRIORITY DATE
11/12/1999	11/12/1998

25908
NOVOZYMES NORTH AMERICA, INC.
C/O NOVO NORDISK OF NORTH AMERICA, INC.
405 LEXINGTON AVENUE, SUITE 6400
NEW YORK, NY 10174

CONFIRMATION NO. 7015

371 ACCEPTANCE LETTER

OC000000006902226

Date Mailed: 10/19/2001

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.494 OR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated Office (37 CFR 1.494) , has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

09/02/2001	09/02/2001
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF RECEIPT OF ALL 35 U.S.C. REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35.U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- U.S. Basic National Fee
- Biochemical Sequence Diskette
- Biochemical Sequence Listing
- Copy of IPE Report
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination

OIPE JC35
FEB 0 2 2005
PATENT & TRADEMARK OFFICE

Attorney Docket No.: 5753.204-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Nielsen et al.

Confirmation No: 7015

Serial No.: 09/831,656

Group Art Unit: 1638

Filed: May 11, 2001

Examiner: Kallis, Russell

For: Transgenic Plant Expressing Maltogenic Alpha-Amylase

RECEIVED
10 FEB 2005
Legal Staff
International Division

PETITION UNDER 37 CFR 1.53

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Commissioner to accord the filing date of the above-captioned application as the date of deposit of the application of **May 11, 2001**.

This Application was filed under 35 U.S.C. 371 on May 11, 2001. All the requirements necessary for obtaining a filing date were complied with as of filing. As indicated in the cover sheet, a copy of the international application (PCT/DK99/00624) was communicated by the International Bureau on June 2, 2001. The international application contained a paper copy of the Sequence Listing.

As all requirements were met at filing, the Application should have been accorded the filing date of the date of deposit of **May 11, 2001**. However, the USPTO has mistakenly accorded a filing date of September 2, 2001, and appropriate correction is therefore required.

Please charge the required fee under 37 C.F.R. 1.17(h), estimated to be $130.00, to Novozymes North America, Inc., Deposit Account No. 50-1701. A duplicate of this sheet is enclosed.

Respectfully submitted,

Date: January 31, 2005

Jason I. Garbell, Reg. No. 44,116
Novozymes North America, Inc.
500 Fifth Avenue, Suite 1600
New York, NY 10110
(212) 840-0097

02/03/2005 JBALINA2 00000073 501701 09831656
01 FC:1464 130.00 DA

Attorney Docket No.: 5753.204-US

PATENT

COMBINED DECLARATION FOR UTILITY PATENT APPLICATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TRANSGENIC PLANT EXPRESSING MALTOGENIC ALPHA-AMYLASE

(Title of the Invention)

the specification of which

[ ] is attached hereto

OR

[x] was filed on (11/12/1999 as PCT International Application Number **PCT/DK99/00624** and was amended on (MM/DD/YYYY) _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by an amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international applications(s) for patent or inventor's certificate or of any PCT international applications(s) which designated at least one country other than the United States of America, listed below and have also identified below any foreign application(s) for patent or inventor's certificate, or any PCT international application(s) having a filing date before that of the application(s) on which priority is claimed:

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
PA 1998 01478	Denmark	11/12/1998	[X] YES [ ] NO [ ] YES [ ] NO [ ] YES [ ] NO [ ] YES [ ] NO

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date
60/123,643	03/10/1999

a copy was filed 11 May 01

25908
PATENT TRADEMARK OFFICE

Direct all correspondence to:

Customer Number 25908

I hereby appoint the practitioners at the above mentioned customer number as my/our attorney(s) or agent (s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR	
Given Name (first and middle [if any]) 100	Jack Bech
Family Name or Surname	Nielsen
Inventor's Signature	
Date	17/04/2001
Residence: City, State, Country	Hellerup
Citizenship	Danish DKX
Mailing Address	Ole Olsens Allé 12
City, State, Zip, Country	DK-2900 Hellerup, Denmark

NAME OF SECOND INVENTOR	
Given Name (first and middle [if any])	Søren
Family Name or Surname 200	Kjærulff
Inventor's Signature	
Date	19/4-2001
Residence: City, State, Country	Vanløse
Citizenship	Danish DKX
Mailing Address	Kongsdalsvej 47
City, State, Zip, Country	DK-2720 Vanløse, Denmark

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09831656

Total Records Found: 10

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount Mailroom Date	Payment Method
05/16/2001	00000248	1	970	$860.00 05/11/2001	DA 501701
05/16/2001	00000249	1	964	$240.00 05/11/2001	DA 501701
05/16/2001	00000250	1	581	$40.00 05/11/2001	DA 501701
05/07/2004	00000005	1	1401	$330.00 05/06/2004	DA 501701
05/07/2004	00000006	1	1253	$950.00 05/06/2004	DA 501701
07/28/2004	00000001	1	1402	$330.00 07/26/2004	DA 501701
07/28/2004	00000002	1	1251	$110.00 07/26/2004	DA 501701
02/03/2005	00000168	1	1501	$1,400.00 02/02/2005	DA 501701
02/03/2005	00000169	1	8001	$3.00 02/02/2005	DA 501701
02/03/2005	00000170	1	1464	$130.00 02/02/2005	DA 501701

09/831656
JC18 Rec'd PCT/PTO 11 MAY 2001

Attorney Docket No. 5753.204-US

PATENT

IN THE UNITED STATED DESIGNATED/ELECTED OFFICE (DO/EO/US)

INTERNATIONAL APPLICATION NO.: PCT/DK99/00624

INTERNATIONAL FILING DATE: November 12, 1999

PRIORITY DATE: November 12, 1998

TITLE: Transgenic Plant Expressing Maltogenic Alpha-Amylase

APPLICANT(S) FOR RO/US: Nielsen et al

EXPRESS MAIL CERTIFICATE

Box PCT
Commissioner for Patents
Washington, DC 20231

Sir:

Express Mail Label No. EL 739103098 US

Date of Deposit: May 11, 2001

I hereby certify that the following attached papers or fee

1. Transmittal Letter to the DO/EO/US (in duplicate)
2. Preliminary Amendment
3. Recordation Form Cover Sheet
4. Assignment
5. Executed Combined Declaration and Power of Attorney

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

Kelley O'Patry
(Name of person mailing paper(s) or fee)

K. O'Patry
(Signature of person mailing paper(s) or fee)

Mailing Address:

Novozymes North America, Inc.
405 Lexington Avenue, Suite 6400
New York, NY 10017

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Oppenheimer, Wolff & Donnelly LLP
840 Newport Center Drive
Suite 700
Newport Beach, CA 92660

In re Application of LENTING et al. Application No.: 09/831,679 PCT No.: PCT/AT99/00272 Int. Filing Date: 10 November 1999 Priority Date: 10 November 1998 Attorney Docket No.: 20560-32 For: FACTOR VIII POLYPEPTIDE HAVING FACTOR VIII:C ACTIVITY	NOTIFICATION AND DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 05 July 2001.

BACKGROUND

On 10 November 1999, applicants filed international application PCT/AT99/00272, which claimed a priority date of 10 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 June 2000, which was 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 10 May 2001.

On 10 May 2001, applicants filed, *inter alia*, a transmittal letter concerning a filing under 35 U.S.C. 371 (Form PTO-1390) and a "translation"[1] of the international application into English. The transmittal letter was not accompanied by a check or by an authorization to charge a Deposit Account for the Basic National fee.

On 13 June 2000, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the full U.S. Basic National Fee by thirty months.

---

[1]It is noted that this "translation" does not appear to be a translation of the international application as filed. For example, it contains a different number of claims that the published international application.

On 05 July 2001, applicants filed the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

Conflicting Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter (Form PTO-1390) filed on 10 May 2001 identified the application as "a filing under 35 U.S.C. 371." However, the first paragraph of the "translation" of the international application filed 10 May 2001 states that "[t]his application claims priority to . . . PCT application WO00/28021 . . . ." Applicant's reference to the disclosure as claiming priority to the international application in the first sentence of the specification is inconsistent with the transmittal letter filed 25 June 1999 and contradicts the request in the transmittal letter to file under 35 U.S.C. 371. See, e.g., MPEP 1893.03(c) ("a national stage application filed under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application"). The transmittal letter (Form-1390) used by applicant is to be used only with submissions under 35 U.S.C. 371. Since applicant gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 10 May 2001 were improperly accepted as a submission under 35 U.S.C. 371. The NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 13 June 2001 is hereby VACATED. The application is deemed to have been filed under 35 U.S.C. 111(a).

Continuation Application

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.

09/831,679) and the international application (PCT/AT99/00272) designating the United States were copending on 10 May 2001.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

Petition to Revive

Because the filing of the present continuing application under 35 U.S.C. 111(a) on 10 May 2001 is accepted as an appropriate response and the application was not filed under 35 U.S.C. 371, the U.S. Basic National Fee was not due on 10 May 2001. Accordingly, the petition to revive under 37 CFR 1.137(b) is moot. The petition fee of $1,240 will be credited to Deposit Account No. 16-2230.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** as **MOOT** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 13 June 2001 is **VACATED**.

This application is accepted as an application filed under 35 U.S.C. 111(a) with a filing date of 10 May 2001.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the International Division for processing in accordance with this decision, that is for (1) removal of the papers communicated from the International Bureau to the United States Patent and Trademark Office concerning international application PCT/AT99/00272, (2) correction of information in PALM (computer database) and (3) correction of fees. Afterwards, the application will be forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. 111(a) with a filing date of **10 May 2001**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

NOV 0 2 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

#4

Richard L. Carlson
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of TAUFENBACH	:	
U.S. Application No.: 09/831,698	:	DECISION ON PETITION
Int. Application No.: PCT/DE99/03570	:	
Int. Filing Date: 09 November 1999	:	UNDER 37 CFR 1.137(b)
Priority Date: 13 November 1998	:	
Attorney Docket No.: 6056-000040	:	
For: CO_2 SLAB LASER	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 22 June 2001.

BACKGROUND

On 09 November 1999, applicant filed international application PCT/DE99/03570, which claimed priority of an earlier Germany application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 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 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicant filed a Transmittal Letter concerning a filing under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). The submission did not include the requisite basic national fee.

On 15 June 2001, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to pay the basic national fee.

On 22 June 2001, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a 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."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a translation of the international application into English must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

MAR 2 7 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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In re Application of TAUFENBACH	:	
U.S. Application No.: 09/831,698	:	DECISION
Int. Application No.: PCT/DE99/03570	:	
Int. Filing Date: 09 November 1999	:	
Priority Date: 13 November 1998	:	
Attorney Docket No.: 6056-000040	:	
For: CO_2 SLAB LASER	:	

This is in response to applicant's "Request for Withdrawal of Abandonment" filed 25 February 2002.

BACKGROUND

On 09 November 1999, applicant filed international application PCT/DE99/03570, which claimed priority of an earlier Germany application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 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 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicant filed a Transmittal Letter concerning a filing under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). The submission did not include the requisite basic national fee.

On 15 June 2001, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to pay the basic national fee.

On 22 June 2001, applicant filed a petition under 37 CFR 1.137(b).

On 02 November 2001, this Office mailed a decision granting the 22 June 2001 petition.

On 05 November 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371, which indicated that a translation of the international application into English and an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

On 08 January 2002, applicant filed a response to the Notification of Missing Requirements. The response included a purported translation of the international application into English and a copy of an executed declaration allegedly filed on 15 August 2001.

On 28 January 2002, the DO/EO/US mailed a Notification of Abandonment, which indicated that the present application is abandoned for failure to pay the full basic national fee.

On 25 February 2002, applicant filed the present request to have the holding of abandonment withdrawn.

DISCUSSION

The petition under 37 CFR 1.137(b) filed 22 June 2001 states that it is accompanied by a fee of $355.00 for the basic national fee. However, because the European Patent Office was the International Searching Authority, the requisite basic national fee was $430.00 under 37 CFR 1.492(a)(5). The petition under 37 CFR 1.137(b) was not accompanied by authorization to charge additional required fees under 37 CFR 1.492.

The copy of the declaration filed with the 08 January 2002 response included a cover letter which authorizes the USPTO to charge any fees that may be required to Deposit Account No. 08-0750. Applicant has submitted a copy of a return postcard which lists a declaration in its itemized contents and bears a USPTO date stamp of 15 August 2001. This serves as *prima facie* evidence that the authorization to charge fees was provided on 15 August 2001, and thus the $75.00 deficiency in the basic national fee would have been cured as of that date.

CONCLUSION

For the reasons above, the present request is GRANTED.

The Notification of Abandonment mailed 28 January 2002 is hereby VACATED.

Applicant must file a proper response within TWO (2) MONTHS from the mail date of this decision, including a proper translation of the international application into English.[1]

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[1] The purported translation filed 08 January 2002 is defective. For example, the published international application contains twelve claims, whereas the purported translation contains thirteen claims. The translation must not include any additions or deletions.

Extensions of time are available up to the limit set forth in the Notification of Missing Requirements mailed 05 November 2001.

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

AUG 2 2 2001

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

James H. Morris
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

In re Application of
ROYER
Application No.: 09/831,792
PCT No.: PCT/FR99/02564
Int. Filing Date: 21 October 1999
Priority Date: 23 October 1998
Attorney Docket No.: S1022/8246
For: SELF-ADHESIVE ELECTRONIC CIRCUIT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 11 May 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $860 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 28, 2005

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 6,852,836

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

1649

SPE **Art Unit**

DEC 1 2 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Scott T. Wakeman
Dennison, Scheiner, Schultz & Wakeman
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202-3417

In re Application of	:	
DAUTREPPE et al.	:	
Application No.: 09/931,918	:	DECISION ON
PCT No.: PCT/FR99/02899	:	
Int. Filing Date: 24 November 1999	:	PETITION UNDER
Priority Date: 25 November 1998	:	
Attorney Docket No.: 01107	:	37 CFR 1.137(b)
For: EASY-TO-OPEN COVERS	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 29 May 2001.

BACKGROUND

On 24 November 1999, applicant filed international application PCT/FR99/02899, which claimed a priority date of 25 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 May 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 25 May 2001.

On 29 May 2001, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the international application, and the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

On 10 July 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 was required.

On 07 August 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" which was accompanied by an executed declaration of inventors.

On 28 August 2001, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c) date of 07 August 2001.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(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.

As to item (1), applicants submitted the basic national fee on 29 May 2001.

As to item (2), applicants submitted the petition fee of $1,240.00 on 29 May 2001.

With regard to item (3), petitioner has provided the required statement.

The declaration filed 07 August 2001 complies with 37 CFR 1.497(a)-(b). However, the processing fee ($130) under 37 CFR 1.492(f) for providing an English translation later than 30 months from the priority date has not been paid. As noted in 37 CFR 1.495(c)(2), the payment of the processing fee set forth in 37 CFR 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. Accordingly, the English translation filed 29 May 2001 should not have been accepted. The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 28 August 2001 is hereby VACATED.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 28 August 2001 is **VACATED**.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the

contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring the processing fee under 37 CFR 1.492(f) for providing the translation of the application and the Annexes later than the appropriate 30 months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 4, 2010

TO SPE OF : ART UNIT 2431 - SPE William R. Korzuch.

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/831,935 Patent No.: 7,260,221 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the Related U.S. Application Data be amended on the title page of patent as shown on 1050 form in COCIN dated 12-18-2009?

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

[XX] **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: ALL approved

/Gilberto Barron Jr/
SPE 2432

for SPE William R. Korzuch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HENRY M. SINAI
(IP-PARTNERSHIP)
P.O. BOX 669
RAANANA 43350 IL ISRAEL

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Israel Sarussi	:	
Application No. 09/831,944	:	DECISION GRANTING PETITION
Filed: December 12, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P-2040-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 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 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 April 8, 2003, 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 3736.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMSON LICENSING INC.
PATENT OPERATIONS
P O BOX 5312
PRINCETON, NJ 08543-5312

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of :
Yannick Nicolas, et al. :
Application No. 09/831,992 :
Filed: August 16, 2001 :
Attorney Docket No. PF990061 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 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 final Office action mailed May 18, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. An Advisory action was mailed August 23, 2005 indicating that the reply filed on August 11, 2005, failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on August 19, 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 and a Request for Continued Examination (RCE); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed December 2, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 2600, Art Unit 2623 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070813

DATE : August 13, 2007

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6,531,772

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Art Unit 2814

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING OR 371(c) DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,067	04/09/2001	Robert Gold	156885-0003 (prev.258/303	1097

29000 7590 07/23/2007
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

EXAMINER
GREGORY, BERNARR E

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 07/23/2007

DECISION ON PETITION FOR RESCISSION OF SECRECY ORDER
(35 U.S.C. 181-188)

PETITION NUMBER 13,164

This is in response to the petition, filed 11-17-06, under 37 CFR 5.4 for rescission of the Secrecy Order.

Upon recommendation of sponsoring Government agency, the petition is Granted.

for
Director, Technology Center 3600
(571) 272-5150

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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DIW Sep-05

Paper No. 16

MASON, MASON & ALBRIGHT
P.O. BOX 2246
ARLINGTON VA 22202-0246

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Verberg et al.	:	
Application No. 09/832,119	:	DECISION ON PETITION
Filed: 11 April, 2001	:	
Atty Docket No. 8553/210	:	

This is a decision on the petition filed on 4 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 September, 2003, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on 15 July, 2003, which set a two (2) month shortened statutory period for reply. No extensions of the time

[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.

(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)).

for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 11 February, 2004.

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Howrey LLP-EU
c/o IP Docketing Department
2941 Fairview Park Drive
Suite 200
Falls Church, VA 22042

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,140,324 :
Issue Date: August 1, 2006 :
Application No. 09/832,119 : NOTICE
Filed: April 11, 2001 :
Attorney Docket No. 8553/210 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 12, 2008. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1033 N. Fairfax Street, Suite 306
Alexandria, VA 22314

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of	:	
GOEDDE	:	
Application No. 09/832,125	:	DECISION ON PETITION
Filed: April 11, 2001	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 7, 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 request to withdraw all attorneys by customer number 32256 cannot be approved when the oath appoints individual attorneys. In order to withdraw practitioners by customer number, they must have been appointed in the oath by the same customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Geoffrey S. Goedde**
524 Ridgeview Drive
Louisville, CO 80027

cc: **Reed & Smith LLP**
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042-4503

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of
Fiscella et al.
Application No. 09/832,129
Filed: April 11, 2001
Attorney Docket No. PZ045P1

: DECISION GRANTING PETITION

This decision is in response to applicants' 'LETTER REGARDING PATENT TERM ADJUSTMENT" timely[1] filed on December 5, 2003 requesting that the Office review the PTA on the application. This letter is being construed as an application for patent term adjustment pursuant to 37 CFR 1.705(b).

Applicants' application is **GRANTED.** The Office will adjust the PTA calculation to reflect an additional ten days of PTA at the time of the mailing of the notice of allowance. Accordingly, the proper amount of patent term adjustment at the time of the mailing of the notice of allowance is

Applicants request that the Office reconsider the PTA adjustment.

After review of the PTA calculation, the Office deems that applicants were not granted the accurate amount of PTA. The Office granted applicants three hundred and eight days (308) days of Office delay pursuant to 37 CFR 1.704(a)(1).[2] The Office assessed an applicant delay of thirty-four (34 days for failing to respond to the missing parts within three months. However upon reviewof the application, the response was in-fact filed on March 22, 2002 and accordingly the delay should have only been for period of twenty-four (24) days.[3] Accordingly, at the time of the mailing of the notice of allowance, the correct amount of PTA is two hundred and eighty-four days (308-24=284).

After the mailing of this decision, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. The Office notes that any delays pursuant to 37 CFR 1.702(a)(4) will be added to the determination which is made at the time of the issuance of the patent. Applicant will be given notice of the change to PTA in the issue notification letter which is mailed to applicant approximately three weeks prior to issuance of the patent.

---

[1]Issue fee was paid on December 12, 2003.

[2]The delay began on June 12, 2002 and ended on April 15, 2003, a three hundred and eight day delay.

[3]The delay began on February 27, 2002 and ended on March 22, 2002. The Office initially showed that the delay ended on April 1, 2002 which added an additional ten days of delay.

Application No. 09/832,129

Applicants have authorized the charge of $200.00 to deposit account 08-3425. No additional fees are required.

Any question concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7757.

Kery A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examiner Policy

cc: Copy of adjusted PTA calculation

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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BRICK G. POWER
TRASK, BRITT & ROSSA LAW OFFICES
P.O. BOX 2550
SALT LAKE CITY UT 84110

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
John W. Chrisman, III	:	
Application No. 09/832,141	:	DECISION GRANTING PETITION
Filed: April 9, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4826US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 a Notice of Appeal and a Reply Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 30, 2006, 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 $60 extension of time submitted with the petition on May 15, 2007 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 3711.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 032204

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

MAR 24 2004

In re Application of	)	
Daun SINGH.	)	
Application No. 09/832,216	)	DECISION ON REQUEST TO
Filed: April 11, 2001	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 3460-0103P	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 21, 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 request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mr. Greg Haight
Genesis II, Inc.
8221 Old Courthouse Road
Suite 300
Vienna, VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of	:
James Y. Liu et al.	:
Application No. 09/832,254	: DECISION GRANTING PETITION
Filed: April 9, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 5580P001	:

This is a decision on the petition, filed June 24, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on April 12, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2154 for examination in due course.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jordan M. Becker
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

MAIL

JUL 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
James Y. Liu et al.
Application No. 09/832,254
Filed: January 22, 2001
For: METHOD AND SYSTEM FOR SCANNING ELECTRONIC MAIL TO DETECT AND ELEMINATE COMPUTER VIRUSES USING A GROUP OF EMAIL-SCANNING SERVERS AND A RECIPIENT'S EMAIL GATEWAY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 23, 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.

Michelle L Eisen for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
(571) 272-3613

cc: Jamos Y Liu
Gallantry Technologies, Inc.
1800 Wyatt Drive, Suite 7
Santa Clara, CA 95054

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Paper No. 18

BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of Gholam Peyman Application No. 09/832,269 Filed: April 10, 2001 Attorney Docket No. 3614/174	: DECISION GRANTING PETITION : UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 7, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 12, 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 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and petition under 37 CFR 1.48(a) to correct inventorship.[2]

Frances Hicks

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).

[2] Receipt is also acknowledged of a concurrently filed revocation and power of attorney.

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Paper No. 24

KENT E. GENIN
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Application Peyman et al. Application No. 09/832,269 Filed: April 10, 2001 Attorney Docket No. 3614/174	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 21, 2004. Applicants disclose that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) should be corrected from ninety-two (92) days to eighty-two (82) 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 **twenty-two (22)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

BACKGROUND

On March 18, 2004, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 92 days.

Applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e)[1]. Applicants request that the patent term adjustment be corrected to 82 days. Applicants stated that an additional period of adjustment of 60 days for delay in taking action in response to their response filed November 8, 2002 should be entered. Specifically, applicants argue that this adjustment would be for the difference between the 4 month date, March 8, 2003, and the date of mailing of the supplemental notice of allowance, May 7, 2003. The supplemental notice of allowance was mailed to correct an earlier notice of allowance mailed March 9, 2003. However, applicants disclose

[1] PALM records indicate that the Issue Fee was also received June 21, 2004.

that the period of adjustment should have been reduced by 66 days pursuant to § 1.704(c)(10) for the filing of a petition to withdraw from issue on July 7, 2003, which was granted on July 7, 2003; and a preliminary amendment on July 21, 2003 and a supplemental information disclosure statement on August 8, 2003, which were both responded to by a notice of allowance mailed on September 11, 2003. Further, applicants disclose that a period of reduction of 4 days should be entered for their delay in paying the issue fee. The Office did not receive the issue fee payment until December 15, 2003, three months and 4 days after the mailing of the notice of allowance.

Applicants state that the present application is not subject to a terminal disclaimer.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(ii) provides for patent term adjustment:

> – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to–
>
> > (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 C.F.R. § 1.702 provides that:

> (a) Failure to take certain actions within specified time frames . Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> > (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

37 CFR § 1.703 provides, in pertinent part, that:

> (a) The period of adjustment under § 1.702(a) is the sum of the following periods:
>
> (2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

OPINION

As to entry of an additional period of adjustment of 60 days associated with the mailing of a "second" notice of allowance,

applicants' arguments have been considered but not found persuasive. A review of the record reveals that a notice of allowance under § 151 was mailed on March 7, 2003 in response to and within four months of applicants' filing of a response on November 8, 2002. The notice of allowability accompanying the notice of allowance stated that the allowed claims are 1-21. In response to applicants' letter of March 19, 2003, the Office issued on May 7, 2003 a supplemental notice of allowability stating that the allowed claims are 1-25 (and an examiner's amendment cancelling the word "preventive" in claim 22, line 2). The mailing of this supplemental notice of allowability does not alter the date used in calculation of the period of adjustment pursuant to § 1.703(a)(2). The mailing of a supplemental notice of allowability did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

However, applicants are correct that the patent term adjustment should have been reduced by 66 days pursuant to § 1.704(c)(10) for their filing of multiple papers after the mailing of a notice of allowance. Likewise, applicants are correct that pursuant to § 1.704(b), the patent term adjustment should have been reduced by 4 days for applicants taking in excess of three months to pay the issue fee in response to the notice of allowance mailed September 11, 2003.

CONCLUSION

In view thereof, the petition is **GRANTED** to the extent indicated.

The patent term adjustment at the time of the mailing of the notice of allowance is **twenty-two (22)** days (92 days of Office delay reduced by 70 days of applicant delay).

As this letter was submitted advising the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office. The $200.00 fee submitted is being refunded to Deposit Account No. 23-1925, as authorized.

The application is being forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

DAVID G. HENRY
900 Washington Avenue
P.O. Box 1470
Waco, TX 76701

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JAN 28 2004
OFFICE OF PETITIONS

In re Application of

William E. McCoy

Application No. 09/832,303

Filed: April 10, 2001

Attorney Docket No. HOTSTAMP PAT

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed May 2, 2003, which set a shortened statutory period for reply of three (3) months. No response to the final Office action was received within the allowable period. Accordingly, the application became abandoned on August 3, 2003. A Notice of Abandonment was mailed on December 5, 2003.

The Request for Continued Examination filed November 19, 2003, is noted and made of record.

Deposit account 50-0894 will be charged $1,330.00 for the instant petition fee. Deposit account 50-0894 will be refunded $475.00 for the extension of time within the third month because the request for the extension of time was made outside the maximum statutory period for reply that expired at midnight on November 2, 2003.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Ilya Schiller et al.
Application No. 09/832,340
Filed: April 10, 2001
Attorney Docket No. 19965-004001

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed non-provisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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 and 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 Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

This pending nonprovisional application was filed on April 10, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/195,491, which was filed on April 10, 2000, and for which priority is claimed. However, the instant non-provisional application was filed more than 12 months after the filing dates of provisional applications 60/096,988 and 60/142,200 and thus cannot properly claim the benefit of their earlier filing dates under 35 USC 119(e). Furthermore, 35 USC 111 (b) (7) stipulates "A provisional application

shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title".

37 CFR 1.78(a)(2)(i) requires that any non-provisional application claiming the benefit of one or more prior-filed copending non-provisional applications must not only contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed non-provisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each non-provisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent non-provisional application. *See* MPEP Section 201.11, *Reference to Prior Non-provisional Applications*. In the amendment to the specification, filed April 1, 2008, the benefit claim pertaining to the non-provisional applications 09/376,837 and 09/698,471 is initially stated without specifying the relationship of the '837 and '471 applications to the instant application. The inclusion of the relationship in question later on in the amendment is confusing and therefore unacceptable.

Additionally, the amendment is not acceptable as drafted since it also improperly incorporates by reference the prior-filed application(s). An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ *201.06(c) and 608.04(b)*.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of laws and regulations noted above) to correct the above matters are required.

As authorized, the $1410 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No. 06-1050.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

CC: David L. Feigenbaum
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

Amendments to the specification:

Please replace the paragraph beginning at page 1, line 3 with the following amended paragraph:

This application claims the benefit of the filing dates of United States Provisional Patent Application 60/195,491, filed April 10, 2000, United States Provisional Patent Application 60/096,988, filed August 18, 1998, United States Provisional Patent Application 60/142,200, filed July 1, 1999, United States Patent Application 09/376,837, filed August 18, 1999, and United States Patent Application 09/698,471, filed October 27, 2000, ~~both~~ all incorporated here by reference. This application is a continuation in part of United States Patent Application 09/698,471, filed October 27, 2000[[.]], which is a continuation in part of United States Patent Application 09/376,837, filed August 18, 1999.

Attorney's Docket No.: 19965-004001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Ilya Schiller et al.	Art Unit	: 2624
Serial No.	: 09/832,340	Examiner	: Brian Q. Le
Filed	: April 10, 2001		
Title	: USING HANDWRITTEN INFORMATION		

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.78(A)(3) FOR DELAYED CLAIM UNDER 35 USC 120

Please accept the applicant's unintentionally delayed claim under 35 USC 120 for the benefit of a prior-filed application. This petition is accompanied by an amendment in reply to an office action. The amendment includes the reference required by 35 USC 120 and 37 CFR 1.78(a)(2) to the prior-filed application.

The entire delay between the date this claim was due under 37 CFR 1.78(a)(2)(ii) and the date of filing this claim was unintentional.

Please charge any fees due in connection with this petition, including the surcharge under 37 CFR 1.17(t), or make any credits to deposit account 06-1050.

Respectfully submitted,

Date: 4/1/8

David L. Feigenbaum
Reg. No. 30,378

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
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21889962.doc

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MINNEAPOLIS MN 55440-1022

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In re Application of	:	
Ilya Schiller et al.	:	
Application No. 09/832,340	:	DECISION ON PETITION
Filed: April 10, 2001	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 19965-004001	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 12, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed non-provisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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 and 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 Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The instant petition does not comply with item (1) above in that the amendment filed concurrently with the instant petition is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this instance, the amendment has been filed after final rejection and is not entered as a matter of right and must be filed in compliance with 37 CFR 1.116. See MPEP § 201.11. The attached Advisory action from the examiner sets forth the

reason(s) for denying entry of the amendment. Before the petition can be granted, petitioner must file a request for continued examination (RCE) under 37 CFR 1.114 (see MPEP §706.07(h) for rules governing the RCE practice).

Further, the amendment to the specification filed concurrently with the instant petition is not acceptable as drafted since it also improperly incorporates by reference the prior-filed application 09/376,837. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *See* MPEP §§ 201.06(c).

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

Encl: Copy of Advisory Action

CC: David L. Feigenbaum
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/832,340	Applicant(s) SCHILLER ET AL.	
	Examiner BRIAN Q. LE	Art Unit 2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Brian Q Le/
Primary Examiner, Art Unit 2624

Continuation of 3. NOTE: The amendments to the specification require further considerations.

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OCT 07 2009
OFFICE OF PETITIONS

In re Application of
Ilya Schiller et al.
Application No. 09/832,340
Filed: April 10, 2001
Attorney Docket No. 19965-004001

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) and (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 21, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed non-provisional and provisional applications set forth in the concurrently filed amendment.

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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 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 application is entitled to the benefit of the earlier filing date.

A Corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914. 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 2624 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

David Bucci
Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/832,340	04/10/2001	2624	1104	19965-0004001	36	12

CONFIRMATION NO. 9977

CORRECTED FILING RECEIPT

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000038096022

Date Mailed: 10/02/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ilya Schiller, Brookline, MA;
Arkady Pittel, Brookline, MA;
Alec Segal, Cambridge, MA;

Power of Attorney:
Robert Hillman--22837
Timothy French--30175
David Feigenbaum--30378
John Hayden--37640

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/195,491 04/10/2000
and claims benefit of 60/230,912 09/13/2000
and is a CIP of 09/698,471 10/27/2000 ABN
which is a CIP of 09/376,837 08/18/1999 PAT 6,577,299
which claims benefit of 60/096,988 08/18/1998
and claims benefit of 60/142,200 07/01/1999
and claims benefit of 60/142,201 07/01/1999
and said 09/698,471 10/27/2000
claims benefit of 60/195,491 04/10/2000
and claims benefit of 60/161,752 10/27/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/03/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/832,340**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Using handwritten information

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Ilya Schiller, et al.	:	
Application No. 09/832,340	:	DECISION ON PETITION
Filed: April 10, 2001	:	TO WITHDRAW
Attorney Docket No. 19965-0004001	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David L. Feigenbaum on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Arkady Pittel at the address indicated below.

There is an outstanding action mailed January 13, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Arkady Pittel**
101 Winthrop Road, Suite 1
Brookline, MA 02445

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/832,340	04/10/2001	Ilya Schiller	19965-0004001

CONFIRMATION NO. 9977

POWER OF ATTORNEY NOTICE

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000041690156

Date Mailed: 05/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE J. Follansbee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/2/06

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/832,341 Patent No.: 6996628

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2154
Art Unit

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ONE WESTLAKES, BERWYN, SUITE 301
P O BOX 980
VALLEY FORGE, PA 19482-0980

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of	:
Ian W. Carpenter and John W. Hayes	:
Application No. 09/832,378	: DECISION GRANTING
Filed: April 11, 2001	: STATUS UNDER 37 CFR 1.47(b)
Attorney Docket No: JMYT-224US1	:
	:

This is in response to the petition under 37 CFR 1.47(b), filed July 18, 2001.

The petition is granted.

Petitioner has shown that the nonsigning 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(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 nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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John William Hayes
5 Elm Court, Sonning Common
Reading RG4 9ND, United Kingdom

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of
Ian William Carpenter and John William Hayes
Application No. 09/832,378
Filed: April 11, 2001
For: Catalytic Generation of Hydrogen

Dear Mr. Hayes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Latrice Bond
Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Ratner & Prestia
Suite 301
One Westlakes, Berwyn
PO Box 980
Valley Forge, PA 19482-0980

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Ian William Carpenter
Ivydene, Latchen, Longhope
Gloucestershire, GR17 0QB
United Kingdom

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of
Ian William Carpenter and John William Hayes
Application No. 09/832,378
Filed: April 11, 2001
For: Catalytic Generation of Hydrogen

Dear Mr. Carpenter:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Ratner & Prestia
Suite 301
One Westlakes, Berwyn
PO Box 980
Valley Forge, PA 19482-0980

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

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JAN 13 2004

Office of the Director
Group 3600

CHARMASSON & BUCHACA
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO, CA 92108-3412

Paper No. 16

In re Application of
James Cahill
Application No. 09/832,396
Filed: April 10, 2001
For: PACKAGING CONNECTOR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 22, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☐ 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 February 18, 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.

cps/1/12/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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Daniel H. Golub
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103

MAILED

JUL 22 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of Marc Alaia et al
Appl. No.: 09/832,437
Filed: April 11, 2001
For: METHOD AND SYSTEM FOR CONTROLLING AN ELECTRONIC AUCTION DURING THE TRANSITION TO A CLOSED STATE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on March 19, 2003, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled, "SHOPPERSUNIVERSE ARTICLE" (8/27/96) and attachment labeled "OUTSIDE COUNSEL EYES ONLY PURSUANT TO PROTECTIVE ORDER", filed ON February 26, 2003, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is returned herewith.

John J. Love, Director
Technology Center 3600
Phone: (703) 308-1020
Fax: (703) 306-4597
JJL:shs;6/30/03

Enclosure: SHOPPERSUNIVERSE ARTICLE" (8/27/96; 2 pages)

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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FEB 03 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800

Steve Morsa
P.O. Box 1996
Thousand Oaks, CA 91358

Paper No. 6

In re application of : **DECISION ON PETITION**
Steve Morsa : **TO MAKE SPECIAL**
Application No. 09/832,440 : **(INFRINGEMENT)**
Filed: April 11, 2001
For: METHOD AND APPARATUS FOR THE FURNISHING OF BENEFITS INFORMATION AND BENEFITS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 14, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 14, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm : 2/1/03

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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

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OFFICE OF PETITIONS

In re Application of :
Nakada et al. :
Application No. 09/832,488 :
Filed: April 11, 2001 :
Atty Dckt No. :
954-007861-US (D01) : ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment Based Under MPEP §§ 711.02 and 711.03(C), filed March 30, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 15, 2005. The Notice set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned September 16, 2005. A Notice of Abandonment was mailed March 2, 2006.

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2145 for re-mailing of the Notice of Allowance.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 09 2006

OFFICE OF PETITIONS

Spencer Fane Britt & Browne LLP
100o Walnut, Suite, 1400
Kansas City, MO 64106

In re Application of
Carter
Application No. 09/832,509
Patent No. 6,896,177 B2
Filed: April 11, 2001

: DECISION GRANTING PETITION

This decision is in response to Applicant's "PETITION TO REVERSE REDUCTION OF PERIOD OF ADJUSTMENT OF PATENT TERM ADJUSTMENT AND COMBINED AFFIDAVIT" timely[1] filed on October 1June 28, 2005 requesting that the Patent Term Adjustment be adjusted from four hundred and seventy-six (476)) days to the amount of five hundred and eighty-eight (588) days. This petition is being considered pursuant to 37 CFR 1.705(d).

Applicant's petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 588 days rather than the 476 day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicant argues that the Office erred in asserting an applicant delay of one hundred and twelve (112) days for the submission of the letter on February 2, 2005 requesting that Office clarify that the reason for cancellation of claims 22-26 was the restriction requirement. Applicant noted that the examiner's answer did not clarify the reason for the cancellation of claims 22-26. Applicant noted the importance of such clarification to avoid future double patenting rejections.

Applicant's arguments are persuasive. A review of the file reflects that the examiner did not clarify why any of claims 17-33 were canceled. Applicant was merely commenting on the reasons for allowance and the reason for the cancellation of some of the claims (22-26). The Office has expressly suggesting that comments on the reasons for allowance is not considered a failure to engage in reasonable efforts to conclude prosecution of the application. See 37 CFR 1247 OG 111 (June 26, 2001). Accordingly, the Office erred in assessing a reduction pursuant to 37 CFR 1.704(c)(10).

After review of this decision, this application will be forwarded to the certificate of correction

[1]Patent Issued on May 24, 2005.

Application No. [redacted] 09/832,509 KF

branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 12-01

Paper No. 5

STEVEN C PETERSON
HOGAN & HARTSON LLP
SUITE 1500
1200 17TH STREET
DENVER, CO 80202

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OFFICE OF PETITIONS

In re Application of	:
Victor D. Dolecek	: DECISION DISMISSING
Application No. 09/832,518	: PETITION
Filed: 9 April, 2001	:
Attorney Docket No. P9529	:

This is a decision on the petition filed on 16 October, 2001, requesting that the above-identified application be accorded a filing date of 9 April, 2001, with a drawing of Figure 1 as a part of the original disclosure of the application.

The application was filed on 9 April, 2001. However, on 16 August, 2001, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a 9 April, 2001, filing date, but that the drawing of Figure 1 appeared to have been omitted.

In response, on 16 October, 2001, a drawing containing Figure 1 was filed accompanied by the present petition. Petitioner argues that a drawing of Figures 1 was filed on 9 April, 2001. In support, the petition, which is signed by a registered practitioner, includes a statement that the practitioner remembers that Figure 1 was part of the application as originally filed.

The argument and evidence presented are not persuasive. Counsel's declaration was made over six months after the events in question and recites counsel's recall the preparation and

filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in counsel's memory, particularly in view of the fact that counsel prepared and mailed similar papers to the PTO on a routine, daily basis.

The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no drawing figures were filed with the original application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims, and abstract), number of claims, number of sheets of drawings, and number of pages of oath/declaration. The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard.

Petitioner states that an itemized postcard receipt was included with the application papers filed on 9 April, 2001, but was never returned to petitioner's counsel after the application was deposited. While, assuming the postcard was received in the Office with the other application papers on 9 April, 2001, this is a most unfortunate situation, petitioner simply has provided no persuasive evidence that Figure 1 was among the application papers received in the Office on 9 April, 2001.

The petition is **dismissed.**

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application is being forwarded to Initial Patent Examination Division for further processing with a filing date of 9 April, 2001, using the application papers filed on that date.

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

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Paper No. 8

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David M. Crompton
CROMPTON, SEAGER & TUFTE, LLC
331 Second Avenue South, Suite 895
Minneapolis, MN 55401-2246

In re Application of
Rowe et al.
Application No. 09/832,534
Filed: April 11, 2001
For: APPARATUS AND METHOD OF BIOMETRIC IDENTIFICATION OR VERIFICATION OF INDIVIDUALS USING OPTICAL SPECTROSCOPY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102 (d), filed December 03, 2001, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section XI: Invention for Countering Terrorism.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with M.P.E.P. § 708.02, Section XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 C.F.R. § 1.17(I). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism.

The petition includes the above requirements. Accordingly, 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.

Krista Zele
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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ST LOUIS MO 63102

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David A. Morgenstern et al :
Application No. 09/832,541 :
Filed: April 11, 2001 :
Attorney Docket No. MTC 6638.7 :

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

P titioner is advised that the issue fee paid on January 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 18

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
Alfons Gail et al	:	
Application No. 09/832,637	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. 10537/96	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 6, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 7, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3676.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STEVEN D. POTTER
26 RAND PLACE
BEDFORD MA 01730

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Steven D. Potter :
Application No. 09/832,644 :
Filed: April 11, 2001 :
Attorney Docket No. None :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 26, 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)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. Accordingly, the above-identified application became abandoned on June 27, 2003.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STEVEN D. POTTER
26 RAND PLACE
BEDFORD MA 01730

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OFFICE OF PETITIONS

In re Application of	:	
Steven D. Potter	:	
Application No. 09/832,644	:	DECISION GRANTING PETITION
Filed: April 11, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18748-002001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 March 26, 2003, is accepted as having been unintentionally delayed.

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 currently of record until such time as appropriate instructions are received to the contrary.

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 3618.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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October 11, 2005

Gregory A. Sebald
MERCHANT & GOULD, P.C.
P. O. Box 2903
Minneapolis, MN 55402-0903

Patent No.: **6834757 B2**
Inventor(s): **Richard Holzner, et al.**
Issued: December 28, 2004
Title: **ROLLER DRIVE UNIT**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

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JUL 23 2008

OFFICE OF PETITIONS

In re Patent No. 6,834,757 :
Issue Date: December 28, 2004 :
Application No. 09/832,649 : ON PETITION
Filed: April 11, 2001 :
Attorney Docket No. 59482.21946 :

This is a decision on the petition filed September 27, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 4/24/2009
Patent No.	: 6,834,757 B2
Serial No.	: 09/832,649
Inventor(s)	: Holzner et al.
Issue Date	: December 28, 2004
Title	: **ROLLER DRIVE UNIT**
Doc./File No.	: **59482.21946**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged errors in your request, (street, province, postal code, etc.) of the Assignee is not captured on the title page of the printed patent for the, but the city and state or country are captured under the present data entry rules. Unless the Inventor and the Assignee are the same, however, it will only be captured under the Inventor's data. No correction is in order here.

In view of the foregoing, your request is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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APR 29 2005

OFFICE OF PETITIONS

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK NY 10022

In re Application of	:	
Gershon Kandler	:	
Application No. 09/832,654	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. 6727/1J087US1	:	

This is a decision on the petition, filed April 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2682 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : April 29, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

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SUBJECT : Withdrawal from Issue of

APR 29 2005

Applicant(s) :Gershon Kandler
Application No. :09/832,654
Filed :April 11, 2001

OFFICE OF PETITIONS

The above-identified application has been assigned Patent No. 6,895,222 and an issue date of May 17, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 17, 2005:

> "All reference to Patent No. 6,895,222 to Gershon Kandler of Israel for WIRELESS PROVISION OF AUDIO CONTENT appearing in the Official Gazette of May 17, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY HOAG LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02110

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FEB 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,800,735	:	
Issue Date: October 5, 2004	:	
Application No. 09/832,659	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. BII-007.01	:	

This is a decision on the petition filed December 27, 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 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 matter 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

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[1] *See* Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 12/20/07

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/832659 Patent No: 6800735 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1647
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

CARLSON GASKEY & OLDS
400 W MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

COPY MAILED

MAR 2 9 2002

OFFICE OF PETITIONS

In re Application of	:
Craig Rae Fowler et al	:
Application No. 09/832,677	: DECISION REFUSING 37 CFR
Filed: April 11, 2001	: 1.47(a) STATUS
Attorney Docket No. 60,130-787	:

This is in response to the petition under 37 CFR 1.47(a), filed April 11, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Barry, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay, will not normally be accepted.

In the instant case, petitioner states that several attempts were made to contact nonsigning inventor Barry at his address and that letters and copies of the application were sent to Mr. Barry on June 26, 2000 and October 18, 2000. Petitioner has not indicated what attempts were made to reach nonsigning inventor Barry, only that "several attempts were made," nor has petitioner submitted copies of the correspondence mailed to Mr. Barry indicating what was actually mailed or as to whether these mailings ever reached the intended addressee. Since it is presumed that the correspondence was returned as undeliverable, petitioner must state what attempts were made to locate the inventor after the mailing of the letters and copies of application sent to Mr. Barry on June 26, 2000 and October 18, 2000. At the very least, a search should be made of the telephone directories and any regional or national registry(s). Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d).

Additionally, petitioner should state what inspection of the assignee's personnel records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Has any of inventor Barry's former co-workers kept in touch with him? Has petitioner attempted to locate inventor Barry on the Internet? If so, what were the results of the Internet search? If inventor Barry is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to Mr. Barry's address, return receipt requested, along with a cover letter of instructions which includes 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. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that inventor Barry cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If inventor Barry is located and the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

CARLSON GASKEY & OLDS
400 W MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:
Craig Rae Fowler et al	:DECISION NOTING JOINDER OF
Application No. 09/832,677	:INVENTOR AND PETITION UNDER
Filed: April 11, 2001	:37 CFR 1.47(a) MOOT
Atotrney Docket No. 60,130-787	:

Papers filed on July 8, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed March 29, 2002, included a Declaration signed by previously nonsigning inventor David M. Barry in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center AU 2838 for examination in due course.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

JUN 0 4 2007

In re Application of:
MCCONNELL, DANIEL L., et al.
Serial No. 09/832,718
Filed: April 11, 2001
Docket: 069035.00001
Title: PORTABLE PERSONAL WIRELESS INTERACTIVE VIDEO DEVICE AND METHOD OF USING THE SAME

DECISION ON PETITION

This is a decision on the petition filed on January 10, 2005. Petitioner is requesting withdrawal of the abandonment and reinstatement of the appeal under 37 CFR 1.181. Alternatively, should the petition under 37 CFR 1.181 be dismissed, the petitioner is requesting that it be treated, alternatively, under 37 CFR 1.137(b).

The petition is dismissed.

Initially, it is pointed out that the petition requests two different forms of relief. This is impermissible under 37 CFR § 1.4(c). This decision will only address the issues under 37 CFR § 1.181. No fee is required under this section.

Background

A Notice of Appeal was filed on June 04, 2004 and an Appeal Brief was filed on August 02, 2004 under 37 CFR § 1.192. A Notification of Non-Compliance With 37 CFR § 1.192(c) was mailed on August 24. 2004. Applicants responded with a new Appeal Brief filed September 02, 2004 under 37 CFR §1.192. A second Notification of Non-Compliance With 37 CFR § 1.192(c) was mailed November 26, 2004 in which it was pointed out that the new brief failed to correct the defect noted in the first Notification with respect to why claims separately argued are separately patentable. In view of this, the examiner concurrently dismissed the appeal. This has resulted in the abandonment of the application. Petitioner contends the dismissal was improper since the new appeal rules under 37 CFR 41.37 went into effect September 13, 2004 and supersede 37 CFR § 1.192, and the examiner's second Notification was mailed after this date. Since 37 CFR §1.41 does not require a statement as to why claims separately argued are separately patentable, petitioner reasons that the dismissal is improper.

Discussion and Decision

MPEP 1205.02 (REV. 3, August 2005) states that "any brief filed ... before September 13, 2004 must comply with either 37 CFR § 1.192 or 37 CFR § 41.37." Page 1 of the Appeal Brief filed September 02, 2004 clearly states "APPELLANT'S BRIEF UNDER 37 CFR 1.192". A review of this brief clearly indicates that applicants were continuing their appeal under 37 CFR § 1.192.

From MPEP 1206 (Rev. 1, Feb. 2000), 37 CFR 1.192(c)(7) and (d) are reproduced:

> (7) *Grouping of claims.* For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable. [Emphasis added.]
>
> (d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed. [Emphasis added.]

In view that the second brief failed to comply with 37 CFR § 1.192(c)(7), in accordance with 37 CFR § 1.192(d), the appeal was properly dismissed.

PETITION DISMISSED.

Petitioner is again reminded that this decision does not address the abandoned status of the application because to do so would contravene the requirement of 37 CFR § 1.4(c), which the undersigned is without authority to waive. A petition to revive under 37 CFR § 1.137, including the required fee, should be separately filed and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

It is to be noted that the third brief filed concurrently with the present petition of January 10, 2005 does not include an evidence appendix and a related proceeding appendix as set forth in 37 CFR § 41.37(ix) and (x). While the brief may be acceptable as is, see MPEP 1205.03, applicants may desire to take the opportunity to correct this omission with the filing of a petition to revive.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE, SUITE 2500
ORLANDO FL 32801

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AUG 01 2008

In re Application of	:	
MCCONNELL, et al.	:	
Application No. 09/832,718	:	DECISION ON PETITION
Filed: April 11, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **069035.00001**	:	

This is a decision on the petition under 37 CFR 1.137 (b) filed January 10, 2005 and resubmitted July 16, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed November 26, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 26, 2004. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief/appeal fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2623 for consideration of the appeal brief filed July 16, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 07-03

Paper No: 10

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

COPY MAILED
AUG 07 2003
OFFICE OF PETITIONS

In re Application of	:	
Corrigan, et al.	:	
Application No.09/832,738	:	DECISION
Filed: 10 April, 2001	:	
Attorney Docket No.: SLM-05800	:	

This is a decision on the petition filed on 6 June, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b),.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of Petitioner identifies as "an International Application" filed on 27 March, 2002. However, while Petitioner rescinded his non-publication request on 6 May, 2002, (within 45 days of the international application filing) Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of 6 November, 2003 accompanies this decision.

The application is being forwarded to Technology Center 2600 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Enc: 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

PATRICK D. BENEDICTO, ESQ.
OKAMOTO & BENEDICTO, LLP
1737 NORTH FIRST STREET, SUITE 270
SAN JOSE CA 95112

COPY MAILED

FEB 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Corrigan et al.	:	
Application No. 09/832,738	:	ON PETITION
Filed: April 10, 2001	:	
Attorney Docket No. SLM-00000 (P0076)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed April 26, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 27, 2004. A Notice of Abandonment was mailed December 29, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/832,747	04/11/2001	Virgil Thomas Yancy	TOM995/99795A	4509

7590 08/02/2004

Winstead Sechrest & Minick, P.C.
P O Box 50784
Dallas, TX 75201

EXAMINER
NGUYEN, SANG H

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 061004

JUN 18 2004

Mark G. Kachigian
Head, Johnson & Kachigian
228 West 17th Place
Tulsa OK 74119

In re Application of:	:	
Virgil Thomas Yancy	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 09/832,747	:	
Filed: April 11, 2001	:	
Attorney Docket No.: **TOM995/99795A**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 12, 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 Winstead Sechrest & Minick P.C. was filed on May 03, 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 form 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 Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#13

MAILED

MAR 23 2004

Office of the Director
Group 2900

Bruce H. Troxell
5205 Leesburg Pike
Suite 1404
Falls Church VA 22041

In re Application of
Stephen Chen
Application No. 09/832,808
Filed: April 12, 2001
For: REMOTE-END ROUTE-CALCULATING NAVIGATION SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on December 22, 2003.

The petition is **DENIED**.

A review of the file reveals that a Notice of Allowability and a Notice of Allowance and Fee(s) Due (hereinafter "Notices") were mailed to the correspondence address of record on June 4, 2003. Since the issue fee was not timely received, the application went abandoned and a Notice to that effect was mailed on November 13, 2003.

Applicant submits that the above Notices were never received and provides a declaration presumably to take advantage of the procedures outlined in 1156 O.G. 53 and MPEP 711.03(c) for withdrawing an abandonment in an application having a non-received Office correspondence.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 4, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Notices were not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Notices were not received and a copy of the docket record where the non-received Notices would have been entered as being due on and around the date of September 4, 2003.

A review of the record indicates applicant filed a Revocation/Change of Address request on April 30, 2003, but the request was not entered and a Notice to that effect was mailed May 8, 2003. Applicant resubmitted the Revocation/Change of Address on July 10, 2003 and a Notice of Acceptance was mailed October 21, 2003 and the correspondence address was changed at that time to the address appearing above.

At the time the Notice of Allowability and Notice of Allowance and Fee(s) Due was mailed, the correspondence address of record was:

Rosenberg, Klein & Lee
3458 Ellicott Center Drive - Suite 101
Ellicott City, MD 21043

Since 1156 OG 53 is predicated upon the fact that applicant is able to receive the correspondence at the correspondence address of record, applicant's statement showing of non-receipt of the Notices needs to be reflective of the original correspondence address which was the correspondence address of record on June 4, 2003, the date the Notice of Allowability and the Notice of Allowance and Fee(s) Due were mailed.

SUMMARY: The Petition to Withdraw the Holding of Abandonment is **DENIED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/mjz: 3/16/04

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

Paper No.

Bruce H. Troxell
5205 Leesburg Pike
Suite 1404
Falls Church, VA 22041

COPY MAILED

APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen Chen	:	DECISION ON
Application No. 09/832,808	:	PETITION
Filed: April 12, 2001	:	
Atty Docket No. MR2387-229	:	
	:	

This is in response to the petition under 37 CFR 1.137(b), filed September 2, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, June 4, 2003, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on September 5, 2003. A courtesy Notice of Abandonment was mailed on November 13, 2003.
By decision mailed March 23, 2004, petitioner's petition to withdraw the holding of abandonment filed December 22, 2003 was denied.

The instant petition includes the required reply in the form of payment of the Issue Fee and the Publication Fee[2]; the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[2] There was no distinct but concurrent requirement for new drawings.

The Office of Patent Publication has been advised of this decision. The application is ready for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

PROCESSED BY
PG PUB DIVISION

JUN 1 8 2002

Applicant: Roland De Le Mettrie et al.
Appl. No.: 09/832,877
Filing Date: April 12, 2001
Title: OXIDIZING COMPOSITION AND USES FOR DYEING, FOR PERMANENTLY RESHAPING OR FOR BLEACHING KERATIN FIBRES
Attorney Docket No.: 05725.0407-01
Pub. No.: US 2001/0049849 A1
Pub. Date: December 13, 2001

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 8, 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. 2, applicant states that the published application recites

[0043] --$N^{+(R)3A-}$,

[0044] --$N^{+(R')2(H)A-}$,

[0045] --$N^{+(R')(H)2A-}$,

[0046] --$N(R')$--CH_2-CH_2--$N^{61(R')(H)2A-}$

wherein it should recite

[0043] --$N^{+}(R')_3A^{-}$,

[0044] ---$N^+(R')_2(H)A^-$,

[0045] ---$N^+(R')(H)_2A^-$,

[0046] --N(R)--CH_2-CH_2--$N^+(R')(H)_2A^-$.

Page 8 of the application as originally filed shows

[0043] --$N^{+(R)3A-}$,

[0044] --$N^{+(R')2(H)A-}$,

[0045] --$N^{+(R')(H)2A-}$,

[0046] --N(R')--CH_2-CH_2--$N^{+(R')(H)2A-}$.

Error no. 10, applicant states that claim 8 of the published application cites:

-$N^{+(R)3A-}$,

-$N^{+(R')2(H)A-}$,

-$N^{+(R')(H)2A-}$,

-N(R)--CH_2-CH_2--$N^{+(R')(H)2A-}$

wherein it should recite

-$N^+(R')_3A^-$,

-$N^+(R')_2(H)A^-$,

-$N^+(R')(H)_2A^-$,

-N(R)--CH_2-CH_2--$N^+(R')(H)_2A^-$.

Claim 8 of the application as originally filed shows

-$N^{+(R)3A-}$,

-$N^{+(R')2(H)A-}$,

-$N^{+(R')(H)2A-}$,

-N(R')--CH_2-CH_2--$N^{+(R')(H)2A-}$.

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 PGPUB
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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Snider & Associates
Ronald R. Snider
P. O. Box 27613
Washington, DC 20038-7613

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,900,654	:	
Issue Date: May 31, 2005	:	
Application No. 09/832,884	:	ON PETITION
Filed: April 12, 2001	:	
Attorney Docket No. L/M-102-DIV	:	

This is a decision on the petition filed September 26, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

C. IRVIN McCLELLAND
OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:
Takehisa Yamaguchi et al	:
Application No. 09/832,892	: DECISION GRANTING PETITION
Filed: April 12, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 205975US2	:

This is a decision on the petition, filed September 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\832892.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

LAW OFFICES
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
RESTON, VIRGINIA OFFICE
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190-5675

Telephone
(571) 203-2700

Facsimile
(202) 408-4400

FACSIMILE TRANSMITTAL

TO		FROM	
Name:	Examiner Pedro Cuevas		Chi H. Kang
Firm:	USPTO	**Phone No.:**	571-203-2738
Fax No.:	703-746-4166	**Fax # Verified by:**	Ria Dellawar
Phone No.:	703-308-4804	**# Pages (incl. this)**	3
Subject:	USPTO Decision Dated July 9, 2003 Appl. No.: 09/832,906 Attorney Docket: 07303.0072	**Date:**	January 22, 2004

Confirmation Copy to Follow: No

Message:

Examiner Cuevas:

According to our telephone conversation this afternoon, I am enclosing a copy of the USPTO decision dated July 9, 2003. Given the delay incurred up to this point, a prompt issuance of an Office Action is earnestly requested. Please call me at 571-203-2738 if you have any questions.

Sincerely,

Chi H. Kang
Reg. No. 50,623

If there is a problem with this transmission, notify fax room at (202) 408-4174 or the sender at the number ab ve.

This facsimile is intended only for the individual to whom it is addressed and may contain information that is privileged, confidential, r exempt from disclosure under applicable law. If you have received this facsimile in error, please notify the sender immediately by telephone (collect), and return the original message by first-class mail to the above address.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DWH - CHK

Paper No. 9

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

7303-72

RECEIVED JUL - 9 2003

In re Application of:
Andrew J. Hazelton
Application No. 09/832,906
Filed: April 12, 2001
Attorney Docket No. 37192-2004700

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the communication filed March 20, 2003. The communication has been treated as petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely respond to the an Office action mailed on September 18, 2002. In the absence of a timely filed response, the application was abandoned by operation of law at midnight on March 18, 2003.

Petitioner asserts that the Office action, dated September 18, 2002, was not received at the proper correspondence address. It is asserted that a proper Revocation of Power of Attorney, which included a Change of Correspondence Address, was filed on December 14, 2001.

A review of the written record indicates that the Revocation of Power of Attorney and Change of Correspondence Address was received in the in the United States Patent and Trademark Office on December 14, 2001, but not properly processed in the application file. As a result, the Office action mailed on September 18, 2002, was sent to an incorrect address. Accordingly, the application was not, in fact, abandoned.

For the above stated reason, the petition is **granted**. The holding of abandonment is hereby withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 C.F.R. § 1.136.

DHW 7-11-03

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-4858.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

LAW OFFICES
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
RESTON, VIRGINIA OFFICE
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190-5675

Telephone
(571) 203-2700

Facsimile
(202) 408-4400

FACSIMILE TRANSMITTAL

TO		FROM	
Name:	Examiner Pedro Cuevas		Chi H. Kang
Firm:	USPTO	**Phone No.:**	571-203-2738
Fax No.:	703-746-4166	**Fax # Verified by:**	Ria Dellawar
Phone No.:	703-308-4804	**# Pages (incl. this)**	3
Subject:	USPTO Decision Dated July 9, 2003 Appl. No.: 09/832,906 Attorney Docket: 07303.0072	**Date:**	January 22, 2004

Confirmation Copy to Follow: No

Message:

Examiner Cuevas:

According to our telephone conversation this afternoon, I am enclosing a copy of the USPTO decision dated July 9, 2003. Given the delay incurred up to this point, a prompt issuance of an Office Action is earnestly requested. Please call me at 571-203-2738 if you have any questions.

Sincerely,

Chi H. Kang
Reg. No. 50,623

If there is a problem with this transmission, notify fax room at (202) 408-4174 or the sender at the number above.

This facsimile is intended only for the individual to whom it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you have received this facsimile in error, please notify the sender immediately by telephone (collect), and return the original message by first-class mail to the above address.

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DWH - CHK

Paper No. 9

7303-72

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

RECEIVED

JUL - 9 2003

In re Application of:
Andrew J. Hazelton
Application No. 09/832,906
Filed: April 12, 2001
Attorney Docket No. 37192-2004700

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the communication filed March 20, 2003. The communication has been treated as petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely respond to the an Office action mailed on September 18, 2002. In the absence of a timely filed response, the application was abandoned by operation of law at midnight on March 18, 2003.

Petitioner asserts that the Office action, dated September 18, 2002, was not received at the proper correspondence address. It is asserted that a proper Revocation of Power of Attorney, which included a Change of Correspondence Address, was filed on December 14, 2001.

A review of the written record indicates that the Revocation of Power of Attorney and Change of Correspondence Address was received in the in the United States Patent and Trademark Office on December 14, 2001, but not properly processed in the application file. As a result, the Office action mailed on September 18, 2002, was sent to an incorrect address. Accordingly, the application was not, in fact, abandoned.

For the above stated reason, the petition is **granted**. The holding of abandonment is hereby withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 C.F.R. § 1.136.

DHI/ 7-11-03

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-4858.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Commissioner for Patents
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Alexandria, VA 22313-1450
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JUN 26 2006

OFFICE OF PETITIONS

Finnegan, Henderson, Farabow, Garrett & Dunner LLP
901 New York Avenue, NW
Washington DC 20001-4413

In re Application of
Rosen et al.
Application No. 09/832,929
Patent No. 6,926,898
Filed: Attorney Docket No 6832.0013

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT under (37 CFR 1.705(b)) " filed on August 20, 2004 and "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT, FILED ON October 11, 2005 requesting that the Office adjust the PTA determination to 515-days.[1]

The application for PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the issuance of the patent to reflect a determination of 515 days. The Office will *sua sponte* issue a certificate of correction. The Office will further adjust the PAIR calculation to reflect this decision.

Applicants assert that the Office erred in the PTA calculation. The Office provided four hundred and eighteen (418) days of administrative delay for the failure to initially act upon the application within 14 months of the filing date of the application. See 37 CFR 1.702(a)(1). Applicants agree with this determination. Applicants agree with the additional two hundred and thirty-two (232) days for the failure to issue the application within four months of the payment of the issue fee under 37 CFR 1.702(a)(4). Applicants also agree with the sixty-one day reduction pursuant to 37 CFR 1.704(c)(8).

Applicants dispute the twenty-one day reduction under 37 CFR 1.704(b) as well as the 11-day reduction under 37 CFR 1.704(c)(10). In addition, applicants out of good faith and candor point out that the Office failed to reduce the PTA determination for a submission of an amendment under 37 CFR 312 that was filed on August 20, 2004 and responded to by the Office on November 1, 2004. Applicants assert that this delay amounts to a 74-day reduction.

---

[1]The Office is merging the two requests into this one decision. The first request is a timely request for additional PTA from a determination of 336 to a determination of 357 and the good faith and candor letter dated October 11, 2005 is a letter requesting that the PTA reduce PTA from a determination 557 days to a determination of 515 days. The Office notes that the first request was entered as a letter and not a PTA request and thus the Petitions Office was unaware of such request to determine PTA.

A review of the file reflects that applicants' arguments are persuasive. As to the three events which applicants dispute, the analysis by the appellants is correct. First, the 21-day reduction under 37 CFR 1.704(b) is inaccurate because applicants filed the response to the missing parts notice within the three-month period which is required to prevent PTA loss. In addition, the Office should not have assessed an 11-day reduction for the response to the notice of publication fees due. The notice of publication fee due was issued after the notice of allowance and Issue fee due and separately required the payment of the publication fee. The applicants should not be penalized in responding to such notice by paying the publication fee. In addition, the Office failed to enter the 312 amendment into PALM and therefore PTA was not reduced for the 312 submission. However, the amount of PTA reduction for the 312 submission is 74 days. Overall the correct amount of PTA at the time of the issuance of the patent is 515 days (232 +418-74- 61 = 515).

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate of correction.

The Office has assessed the $200.00 fee. The letter states that applicants paid the fee by check. The Office does not see any fee recorded for this submission. The Office will assess the fee to deposit account 06-0916. If the Office did cash such check, the applicants are invited to request a refund. No additional fees are required in this deciding this application. No fees has been assessed for the letter which was a good faith and candor letter.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: adjusted Pair calculation
DRAFT Cert. Of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,926,898 B2

DATED : Aug. 9, 2005

INVENTOR(S) : Rosen 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 (557) days

Delete the phrase "by 557 days" and insert – by 515days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/06

TO SPE OF : ART UNIT ~~1653~~ 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/832929 Patent No.: 6926898

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KATHLEEN M. KERR, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1656
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 6,926,898 Page 1 of 35

APPLICATION NO.: 09/832,929

ISSUE DATE: August 9, 2005

INVENTOR(S): Craig A. Rosen and William A. Haseltine

It is hereby certified that an error or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Under item (60) (Related U.S. Application Data) of the title page, delete the text beginning with "Provisional application No. 60/256,931" to and ending "provisional application No. 60/229,358, filed on Apr. 12, 2000."

Under item (56) (References Cited) of the title page and under U.S. PATENT DOCUMENTS beginning on page 1, insert:

--	2003-0022308 A1	1/2003	Fleer et al.
	2003-0036170 A1	2/2003	Fleer et al.
	2003-0036171 A1	2/2003	Fleer et al.
	2003-0036172 A1	2/2003	Fleer et al.
	2003-0054554 A1	3/2003	Becquart et al.
	2003-0082747 A1	5/2003	Fleer et al.
	2003-0104578 A1	10/2001	Ballance
	2004-0010134 A1	4/2001	Rosen et al.
	09/832,501	4/2001	Ballance et al.
	09/833,041	4/2001	Rosen et al.
	09/833,111	4/2001	Rosen et al.
	09/833,117	4/2001	Rosen et al.
	09/833,118	4/2001	Rosen et al.
	10/702,536	11/2003	Fleer et al.
	10/702,636	11/2003	Fleer et al. --

MAILING ADDRESS OF SENDER

U.S. Patent No. 6,926,898

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

JAN 0 4 2006

Under item (56) (References Cited) of the title page and under OTHER PUBLICATIONS beginning on page 1, insert:

-- Larsson, M., et al., "Role of Annexins in Endocytosis of Antigens in Immature Human Dendritic Cells," *Immunology* 92:501-511 (1997).

Latta, M. et al., "Synthesis and Purification of Mature Human Serum Albumin From *E. Coli*," *Bio/Technology* 5:1309-1314 (1987).

Latta, M., et al., "Tryptophan Promoter Derivatives on Multicopy Plasmids: A Comparative Analysis of Expression Potentials in *Escherichia coli*," *DNA and Cell Biology* 9:129-137 (1990).

Lawn, R.M., et al., "The Sequence of Human Serum Albumin cDNA and its Expression in E. coli," *Nucleic Acids Research* 9:6103-6113 (1981).

Le Bras, M., et al., " Epidemiologie et Clinique des Maladies Tropicales D'importation," *La Revue de Medicine Interne* 13:205-210 (1992), with English translation.

Leblois, H., et al., "Stable Transduction of Actively Dividing Cells via a Novel Adenoviral/Episomal Vector," *Molecular Therapy* 1:314-322 (2000).

Lee, C-H., et al., "Sodium Pertechnetate Tc99m Antral Scan in the Diagnosis of Retained Gastric Antrum," *Arch. Surg.* 119: 309-311 (1984).

Lee, C-L., et al., "Preparation and Characterization of Polyethylene-Glycol-Modified Salmon Calcitonins," *Pharmaceutical Development and Technology,* 4(2): 269-275 (1999).

Lee, W-C., et al., "Identification and Characterization of a Nuclear Localization Sequence-Binding Protein in Yeast," *Proc. Natl. Acad. Sci. USA* 86:8808-8812 (1989).

Lee, Y-H., et al., "Comparison of Effective Renal Plasma Flow (ERPF) and Endogenous Creatinine Clearance (Ccr) in Evaluation of the Differential Kidney Function: An in Vivo Study," *Chin. Med. J. (Taipei)* 49:147-152 (1992).

Lei, H-Y., et al., "An Antigen-specific Hypersensitivity Which Does Not Fit Into Traditional Classification of Hypersensitivity," *The Journal of Immunology* 143:432-438 (1989).

Levitt, D., et al., "Toxicity of Perfluorinated Fatty-Acids for Human and Murine B Cell Lines," *Toxicology and Applied Pharmacology* 86:1-11 (1986).

Lew D.B., et al., "Mitogenic Effect of Lysosomal Hydrolases on Bovine Tracheal Myocytes in Culture," *The Journal of Clinical Investigation* 88:1969-1975 (1991).

Lewis, C., et al., "Is Sexual Dysfunctoin in Hypertensive Women Uncommon or Understudied?" *American Jour of Hypertension*," 11:733-735 (1998). --

Under item (57) (ABSTRACT) of the title page, "disordrs" should read --disorders--.

In the Specification

Col. 143, line 26, delete "As exhibited in Table 2, most", and insert --Most--.

Col. 143, line 31, delete "Table 2".

In the Claims

Col. 340, line 40, delete "an".

Col. 340, line 47, delete "an".

In the Sequence Listing

Delete the Sequence Listing beginning in Col. 299, beginning with the text "<160> NUMBER OF SEQ ID NOS: 72" to and ending "<400> SEQUENCE: 72

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Gly Gly Gly Gly Ser Gly Gly Gly Gly Ser Gly Gly Gly Gly Ser
  1               5                   10                  15"
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in Col. 340 and insert the following Sequence Listing:

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<213> Artificial Sequence
<220>
<221> primer_bind
<223> primer useful to clone human growth hormone cDNA

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JAN 0 4 2006

<223> primer useful to clone human growth hormone cDNA

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JAN 0 4 2006

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JAN 0 4 2006

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Glu Asn Phe Lys Ala Leu Val Leu Ile Ala Phe Ala Gln Tyr Leu Gln
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cag tgt cca ttt gaa gat cat gta aaa tta gtg aat gaa gta act gaa 144
Gln Cys Pro Phe Glu Asp His Val Lys Leu Val Asn Glu Val Thr Glu
35 40 45

ttt gca aaa aca tgt gtt gct gat gag tca gct gaa aat tgt gac aaa 192
Phe Ala Lys Thr Cys Val Ala Asp Glu Ser Ala Glu Asn Cys Asp Lys
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JAN 0 4 2006

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 65                  70                  75                  80

cgt gaa acc tat ggt gaa atg gct gac tgc tgt gca aaa caa gaa cct    288
Arg Glu Thr Tyr Gly Glu Met Ala Asp Cys Cys Ala Lys Gln Glu Pro
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gag aga aat gaa tgc ttc ttg caa cac aaa gat gac aac cca aac ctc    336
Glu Arg Asn Glu Cys Phe Leu Gln His Lys Asp Asp Asn Pro Asn Leu
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ccc cga ttg gtg aga cca gag gtt gat gtg atg tgc act gct ttt cat    384
Pro Arg Leu Val Arg Pro Glu Val Asp Val Met Cys Thr Ala Phe His
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gac aat gaa gag aca ttt ttg aaa aaa tac tta tat gaa att gcc aga    432
Asp Asn Glu Glu Thr Phe Leu Lys Lys Tyr Leu Tyr Glu Ile Ala Arg
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aga cat cct tac ttt tat gcc ccg gaa ctc ctt ttc ttt gct aaa agg    480
Arg His Pro Tyr Phe Tyr Ala Pro Glu Leu Leu Phe Phe Ala Lys Arg
145                 150                 155                 160

tat aaa gct gct ttt aca gaa tgt tgc caa gct gct gat aaa gct gcc    528
Tyr Lys Ala Ala Phe Thr Glu Cys Cys Gln Ala Ala Asp Lys Ala Ala
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tgc ctg ttg cca aag ctc gat gaa ctt cgg gat gaa ggg aag gct tcg    576
Cys Leu Leu Pro Lys Leu Asp Glu Leu Arg Asp Glu Gly Lys Ala Ser
            180                 185                 190

tct gcc aaa cag aga ctc aaa tgt gcc agt ctc caa aaa ttt gga gaa    624
Ser Ala Lys Gln Arg Leu Lys Cys Ala Ser Leu Gln Lys Phe Gly Glu
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aga gct ttc aaa gca tgg gca gtg gct cgc ctg agc cag aga ttt ccc    672
Arg Ala Phe Lys Ala Trp Ala Val Ala Arg Leu Ser Gln Arg Phe Pro
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aaa gct gag ttt gca gaa gtt tcc aag tta gtg aca gat ctt acc aaa    720
Lys Ala Glu Phe Ala Glu Val Ser Lys Leu Val Thr Asp Leu Thr Lys
225                 230                 235                 240

gtc cac acg gaa tgc tgc cat gga gat ctg ctt gaa tgt gct gat gac    768
Val His Thr Glu Cys Cys His Gly Asp Leu Leu Glu Cys Ala Asp Asp
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agg gcg gac ctt gcc aag tat atc tgt gaa aat cag gat tcg atc tcc    816
Arg Ala Asp Leu Ala Lys Tyr Ile Cys Glu Asn Gln Asp Ser Ile Ser
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JAN 0 4 2006

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agt aaa ctg aag gaa tgc tgt gaa aaa cct ctg ttg gaa aaa tcc cac    864
Ser Lys Leu Lys Glu Cys Cys Glu Lys Pro Leu Leu Glu Lys Ser His
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tgc att gcc gaa gtg gaa aat gat gag atg cct gct gac ttg cct tca    912
Cys Ile Ala Glu Val Glu Asn Asp Glu Met Pro Ala Asp Leu Pro Ser
    290                 295                 300

tta gct gct gat ttt gtt gaa agt aag gat gtt tgc aaa aac tat gct    960
Leu Ala Ala Asp Phe Val Glu Ser Lys Asp Val Cys Lys Asn Tyr Ala
305                 310                 315                 320

gag gca aag gat gtc ttc ctg ggc atg ttt ttg tat gaa tat gca aga    1008
Glu Ala Lys Asp Val Phe Leu Gly Met Phe Leu Tyr Glu Tyr Ala Arg
                325                 330                 335

agg cat cct gat tac tct gtc gtg ctg ctg ctg aga ctt gcc aag aca    1056
Arg His Pro Asp Tyr Ser Val Val Leu Leu Leu Arg Leu Ala Lys Thr
            340                 345                 350

tat gaa acc act cta gag aag tgc tgt gcc gct gca gat cct cat gaa    1104
Tyr Glu Thr Thr Leu Glu Lys Cys Cys Ala Ala Ala Asp Pro His Glu
        355                 360                 365

tgc tat gcc aaa gtg ttc gat gaa ttt aaa cct ctt gtg gaa gag cct    1152
Cys Tyr Ala Lys Val Phe Asp Glu Phe Lys Pro Leu Val Glu Glu Pro
    370                 375                 380

cag aat tta atc aaa caa aac tgt gag ctt ttt gag cag ctt gga gag    1200
Gln Asn Leu Ile Lys Gln Asn Cys Glu Leu Phe Glu Gln Leu Gly Glu
385                 390                 395                 400

tac aaa ttc cag aat gcg cta tta gtt cgt tac acc aag aaa gta ccc    1248
Tyr Lys Phe Gln Asn Ala Leu Leu Val Arg Tyr Thr Lys Lys Val Pro
                405                 410                 415

caa gtg tca act cca act ctt gta gag gtc tca aga aac cta gga aaa    1296
Gln Val Ser Thr Pro Thr Leu Val Glu Val Ser Arg Asn Leu Gly Lys
            420                 425                 430

gtg ggc agc aaa tgt tgt aaa cat cct gaa gca aaa aga atg ccc tgt    1344
Val Gly Ser Lys Cys Cys Lys His Pro Glu Ala Lys Arg Met Pro Cys
        435                 440                 445

gca gaa gac tat cta tcc gtg gtc ctg aac cag tta tgt gtg ttg cat    1392
Ala Glu Asp Tyr Leu Ser Val Val Leu Asn Gln Leu Cys Val Leu His
    450                 455                 460

gag aaa acg cca gta agt gac aga gtc aca aaa tgc tgc aca gag tcc    1440
Glu Lys Thr Pro Val Ser Asp Arg Val Thr Lys Cys Cys Thr Glu Ser
465                 470                 475                 480
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ttg gtg aac agg cga cca tgc ttt tca gct ctg gaa gtc gat gaa aca   1488
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tac gtt ccc aaa gag ttt aat gct gaa aca ttc acc ttc cat gca gat   1536
Tyr Val Pro Lys Glu Phe Asn Ala Glu Thr Phe Thr Phe His Ala Asp
            500                 505                 510

ata tgc aca ctt tct gag aag gag aga caa atc aag aaa caa act gca   1584
Ile Cys Thr Leu Ser Glu Lys Glu Arg Gln Ile Lys Lys Gln Thr Ala
        515                 520                 525

ctt gtt gag ctt gtg aaa cac aag ccc aag gca aca aaa gag caa ctg   1632
Leu Val Glu Leu Val Lys His Lys Pro Lys Ala Thr Lys Glu Gln Leu
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aaa gct gtt atg gat gat ttc gca gct ttt gta gag aag tgc tgc aag   1680
Lys Ala Val Met Asp Asp Phe Ala Ala Phe Val Glu Lys Cys Cys Lys
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Ala Asp Asp Lys Glu Thr Cys Phe Ala Glu Glu Gly Lys Lys Leu Val
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Gln Cys Pro Phe Glu Asp His Val Lys Leu Val Asn Glu Val Thr Glu
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Phe Ala Lys Thr Cys Val Ala Asp Glu Ser Ala Glu Asn Cys Asp Lys
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Ser Leu His Thr Leu Phe Gly Asp Lys Leu Cys Thr Val Ala Thr Leu
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Arg Glu Thr Tyr Gly Glu Met Ala Asp Cys Cys Ala Lys Gln Glu Pro
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JAN 0 4 2006

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Pro Arg Leu Val Arg Pro Glu Val Asp Val Met Cys Thr Ala Phe His
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Asp Asn Glu Glu Thr Phe Leu Lys Lys Tyr Leu Tyr Glu Ile Ala Arg
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Arg His Pro Tyr Phe Tyr Ala Pro Glu Leu Leu Phe Phe Ala Lys Arg
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Tyr Lys Ala Ala Phe Thr Glu Cys Cys Gln Ala Ala Asp Lys Ala Ala
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Cys Leu Leu Pro Lys Leu Asp Glu Leu Arg Asp Glu Gly Lys Ala Ser
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Lys Ala Glu Phe Ala Glu Val Ser Lys Leu Val Thr Asp Leu Thr Lys
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JAN 0 4 2006

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JAN 0 4 2006

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JAN 0 4 2006

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JAN 04 2006.

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JAN 0 4 2006

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<210> 28
<211> 52
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JAN 0 4 2006

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<223> signal peptide of natural human serum albumin protein

<400> 29
Met Lys Trp Val Ser Phe Ile Ser Leu Leu Phe Leu Phe Ser Ser Ala
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Tyr Ser Arg Ser Leu Asp Lys Arg
20

<210> 30
<211> 114
<212> DNA
<213> Artificial Sequence
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<223> forward primer useful for generation of PC4:HSA albumin fusion VECTOR

JAN 0 4 2006

<220>
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<223> cds natural signal sequence of human serum albumin
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<222> (75)..(81)
<223> XhoI restriction site
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<222> (98)..(114)
<223> cds first six amino acids of human serum albumin

<400> 30
tcagggatcc aagcttccgc caccatgaag tgggtaacct ttatttccct tctttttctc 60

tttagctcgg cttactcgag gggtgtgttt cgtcgagatg cacacaagag tgag 114

<210> 31
<211> 43
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<223> EcoRI restriction site
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<222> (18)..(25)

<223> AscI restriction site
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<222> (18)..(43)
<223> reverse complement of DNA sequence encoding last 9 amino acids

<400> 31
gcagcggtac cgaattcggc gcgccttata agcctaaggc agc 43

<210> 32
<211> 46
<212> DNA
<213> Artificial Sequence
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JAN 0 4 2006

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ccgccgctcg aggggtgtgt ttcgtcgann nnnnnnnnnn nnnnnn 46

<210> 33
<211> 55
<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> reverse primer useful for inserting Therapeutic protein into pC4:HSA vector
<220>
<221> misc feature
<222> (38)

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<223> n equals a,t,g, or c
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JAN 0 4 2006

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<400> 33
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<210> 34
<211> 17
<212> PRT
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<220>
<221> signal
<223> Stanniocalcin signal peptide

<400> 34
Met Leu Gln Asn Ser Ala Val Leu Leu Leu Leu Val Ile Ser Ala Ser Ala
1 5 10 15

<210> 35
<211> 22
<212> PRT
<213> Artificial Sequence
<220>
<221> signal
<223> Synthetic signal peptide

<400> 35
Met Pro Thr Trp Ala Trp Trp Leu Phe Leu Val Leu Leu Leu Ala Leu
1 5 10 15

Trp Ala Pro Ala Arg Gly
20

<210> 36
<211> 23
<212> DNA
<213> Artificial Sequence
<220>

JAN 0 4 2006

<221>primer_bind
<223>Degenerate VH forward primer useful for amplifying human VH domains

<400> 36
caggtgcagc tggtgcagtc tgg 23

<210> 37
<211> 23
<212> DNA
<213> Artificial Sequence
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<221>primer_bind
<223>Degenerate VH forward primer useful for amplifying human VH domains

<400> 37
caggtcaact taagggagtc tgg 23

<210> 38
<211> 23
<212> DNA
<213> Artificial Sequence
<220>
<221>primer_bind
<223>Degenerate VH forward primer useful for amplifying human VH domains

<400> 38
gaggtgcagc tggtggagtc tgg 23

<210> 39
<211> 23
<212> DNA
<213> Artificial Sequence
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<400> 39
caggtgcagc tgcaggagtc ggg 23

<210> 40
<211> 23
<212> DNA
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<400> 40
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<210> 41
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JAN 0 4 2006

<212> DNA
<213> Artificial Sequence
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<221>primer_bind
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<400> 41
caggtacagc tgcagcagtc agg 23

<210> 42
<211> 24
<212> DNA
<213> Artificial Sequence
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<400> 42
tgaggagacg gtgaccaggg tgcc 24

<210> 43
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<213> Artificial Sequence
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<400> 43
tgaagagacg gtgaccattg tccc 24

<210> 44
<211> 24
<212> DNA
<213> Artificial Sequence
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<400> 44
tgaggagacg gtgaccaggg ttcc 24

<210> 45
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<212> DNA
<213> Artificial Sequence
<220>
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<223>Degenerate JH reverse primer useful for amplifying human VH domains

<400> 45
tgaggagacg gtgaccgtgg tccc 24

JAN 0 4 2006

<210> 46
<211> 23
<212> DNA
<213> Artificial Sequence
<220>
<221>primer_bind
<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

<400> 46
gacatccaga tgacccagtc tcc 23

<210> 47
<211> 23
<212> DNA
<213> Artificial Sequence
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<221>primer_bind
<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

<400> 47
gatgttgtga tgactcagtc tcc 23

<210> 48
<211> 23
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<221>primer_bind
<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

<400> 48
gatattgtga tgactcagtc tcc 23

<210> 49
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<213> Artificial Sequence
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<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

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gaaattgtgt tgacgcagtc tcc 23

<210> 50
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<212> DNA
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<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

<400> 50
gacatcgtga tgacccagtc tcc 23

<210> 51
<211> 23
<212> DNA
<213> Artificial Sequence
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<223>Degenerate Vkappa forward primer useful for amplifying human VL domains

<400> 51
gaaacgacac tcacgcagtc tcc 23

<210> 52
<211> 23
<212> DNA
<213> Artificial Sequence
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<400> 52
gaaattgtgc tgactcagtc tcc 23

<210> 53
<211> 23
<212> DNA
<213> Artificial Sequence
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<221>primer_bind
<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 53
cagtctgtgt tgacgcagcc gcc 23

<210> 54
<211> 23
<212> DNA
<213> Artificial Sequence
<220>
<221>primer_bind
<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 54
cagtctgccc tgactcagcc tgc 23

<210> 55
<211> 23
<212> DNA
<213> Artificial Sequence
<220>

JAN 0 4 2006

<221>primer_bind
<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 55
tcctatgtgc tgactcagcc acc 23

<210> 56
<211> 23
<212> DNA
<213> Artificial Sequence

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<221>primer_bind
<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 56
tcttctgagc tgactcagga ccc 23

<210> 57
<211> 23
<212> DNA
<213> Artificial Sequence
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<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 57
cacgttatac tgactcaacc gcc 23

<210> 58
<211> 23
<212> DNA
<213> Artificial Sequence
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<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 58
caggctgtgc tcactcagcc gtc 23

<210> 59
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<223>Degenerate Vlambda forward primer useful for amplifying human VL domains

<400> 59
aattttatgc tgactcagcc cca 23

JAN 04 2006

<210> 60
<211> 24
<212> DNA
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<223>Degenerate Jkappa reverse primer useful for amplifying human VL domains

<400> 60
acgtttgatt tccaccttgg tccc 24

<210> 61
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<400> 61
acgtttgatc tccagcttgg tccc 24

<210> 62
<211> 24
<212> DNA
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<400> 62
acgtttgata tccactttgg tccc 24

<210> 63
<211> 24
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<213> Artificial Sequence
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<400> 63
acgtttgatc tccaccttgg tccc 24

<210> 64
<211> 24
<212> DNA
<213> Artificial Sequence
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<223>Degenerate Jkappa reverse primer useful for amplifying human VL domains

JAN 0 4 2006

<400> 64
acgtttaatc tccagtcgtg tccc 24

<210> 65
<211> 23
<212> DNA
<213> Artificial Sequence
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<221>primer_bind
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<400> 65
cagtctgtgt tgacgcagcc gcc 23

<210> 66
<211> 23
<212> DNA
<213> Artificial Sequence
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<400> 66
cagtctgccc tgactcagcc tgc 23

<210> 67
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<400> 67
tcctatgtgc tgactcagcc acc 23

<210> 68
<211> 23
<212> DNA
<213> Artificial Sequence
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<400> 68
tcttctgagc tgactcagga ccc 23

<210> 69
<211> 23
<212> DNA
<213> Artificial Sequence
<220>

JAN 0 4 2006

<221>primer_bind
<223>Degenerate Jlambda reverse primer useful for amplifying human VL domains

<400> 69
cacgttatac tgactcaacc gcc 23

<210> 70
<211> 23
<212> DNA
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<400> 70
caggctgtgc tcactcagcc gtc 23

<210> 71
<211> 23
<212> DNA
<213> Artificial Sequence
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<223>Degenerate Jlambda reverse primer useful for amplifying human VL domains

<400> 71
aattttatgc tgactcagcc cca 23

<210> 72
<211> 15
<212> PRT
<213> Artificial Sequence
<220>
<221>turn
<223>Linker peptide that may be used to join VH and VL domains in an scFv.

<400> 72
Gly Gly Gly Gly Ser Gly Gly Gly Gly Ser Gly Gly Gly Gly Ser
1 5 10 15

<210> 73
<211> 733
<212> DNA
<213> Homo sapiens

<400> 73
gggatccgga gcccaaatct tctgacaaaa ctcacacatg cccaccgtgc ccagcacctg 60

aattcgaggg tgcaccgtca gtcttcctct tccccccaaa acccaaggac accctcatga 120

tctcccggac tcctgaggtc acatgcgtgg tggtggacgt aagccacgaa gaccctgagg 180

JAN 0 4 2006

tcaagttcaa ctggtacgtg gacggcgtgg aggtgcataa tgccaagaca aagccgcggg 240

aggagcagta caacagcacg taccgtgtgg tcagcgtcct caccgtcctg caccaggact 300

ggctgaatgg caaggagtac aagtgcaagg tctccaacaa agccctccca acccccatcg 360

agaaaaccat ctccaaagcc aaagggcagc cccgagaacc acaggtgtac accctgcccc 420

catcccggga tgagctgacc aagaaccagg tcagcctgac ctgcctggtc aaaggcttct 480

atccaagcga catcgccgtg gagtgggaga gcaatgggca gccggagaac aactacaaga 540

ccacgcctcc cgtgctggac tccgacggct ccttcttcct ctacagcaag ctcaccgtgg 600

acaagagcag gtggcagcag gggaacgtct tctcatgctc cgtgatgcat gaggctctgc 660

acaaccacta cacgcagaag agcctctccc tgtctccggg taaatgagtg cgacggccgc 720

gactctagag gat 733

<210> 74
<211> 5
<212> PRT
<213> Artificial sequence
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<221> misc_structure
<223> membrane proximal motif of class 1 cytokine receptors
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<400> 74
Trp Ser Xaa Trp Ser
1 5

<210> 75
<211> 86
<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> forward primer useful for generation of a synthetic gamma activation site (GAS) containing promoter element

<400> 75
gcgcctcgag atttccccga aatctagatt tccccgaaat gatttccccg aaatgatttc 60

cccgaaatat ctgccatctc aattag 86

<210> 76
<211> 27

JAN 0 4 2006

<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> reverse primer useful for generation of a synthetic gamma activation site (GAS) containing promoter element

<400> 76
gcggcaagct ttttgcaaag cctaggc 27

<210> 77
<211> 271
<212> DNA
<213> Artificial Sequence
<220>
<221> misc_feature
<223> Synthetic GAS-SV40 promoter sequence

<400> 77
ctcgagattt ccccgaaatc tagatttccc cgaaatgatt tccccgaaat gatttccccg 60

aaatatctgc catctcaatt agtcagcaac catagtcccg cccctaactc cgcccatccc 120

gcccctaact ccgcccagtt ccgcccattc tccgccccat ggctgactaa tttttttat 180

ttatgcagag gccgaggccg cctcggcctc tgagctattc cagaagtagt gaggaggctt 240

ttttggaggc ctaggctttt gcaaaaagct t 271

<210> 78
<211> 32
<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> primer useful for generation of a EGR/SEAP reporter construct

<400> 78
gcgctcgagg gatgacagcg atagaacccc gg 32

<210> 79
<211> 31
<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> primer useful for generation of a EGR/SEAP reporter construct

<400> 79
gcgaagcttc gcgactcccc ggatccgcct c 31

JAN 0 4 2006

<210> 80
<211> 12
<212> DNA
<213> Artificial Sequence
<220>
<221> misc_binding
<223> NF-KB binding site

<400> 80
ggggactttc cc 12

<210> 81
<211> 73
<212> DNA
<213> Artificial Sequence
<220>
<221> primer_bind
<223> forward primer useful for generation of a vector containing the NF-KB promoter element

<400> 81
gcggcctcga ggggactttc ccggggactt tccggggact ttccgggact ttccatcctg 60

ccatctcaat tag 73

<210> 82
<211> 256
<212> DNA
<213> Artificial Sequence
<220>
<221> misc_feature
<223> Synthetic NF-KB/SV40 promoter

<400> 82
ctcgagggga ctttcccggg gactttccgg ggactttccg ggactttcca tctgccatct 60

caattagtca gcaaccatag tcccgcccct aactccgccc atcccgcccc taactccgcc 120

cagttccgcc cattctccgc cccatggctg actaattttt tttatttatg cagaggccga 180

ggccgcctcg gcctctgagc tattccagaa gtagtgagga ggcttttttg gaggcctagg 240

cttttgcaaa aagctt 256

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Paper No. 6

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OFFICE OF PETITIONS

In re Application of :
Lifeng Wu :
Application No. 09/832,933 : ON PETITION
Filed: April 11, 2001 :
Attorney Docket No. M-10096 US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts (Notice) mailed June 28, 2001, which set a period for reply of TWO MONTHS from the mailed date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) having been obtained. Accordingly, the application became abandoned on August 29, 2001.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

MARKS & CLERK
P.O. Box 957, Station B
OTAWA, ONTARIO
K1P 5S7 CANADA

JUN - 7 2002

In re Application of	:	
Carl Ellingsworth	:	
Application No. 09/832,979	:	DECISION ON PETITION
Filed: April 12, 2001	:	TO MAKE SPECIAL
Attorney Docket No. 10944-US	:	

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed May 3, 2002, to make the above-identified application special.

The petition is DENIED.

The petition requests that the above-identified application be made special under the accelerated examination procedure in view of significant business negotiations. It is stated in the petition that "With the lack of any indication of the progress of the application, the business Applicant is pursing [sic "pursuing"] could be irreparably harmed." The petition does not state a specific conditions outlined in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02.

A grantable petition under 37 C.F.R. § 1.102(d) must satisfy at least one of items I through XII outlined in M.P.E.P. § 708.02.

Because the petition fails to meet the conditions set forth under items I and XII of M.P.E.P. § 708.02, and the allegation of irreparable harm has not been substantiated, the evidence presented in the petition is inadequate to justify taking the application out of its normal turn of examination. Accordingly, the petition must be denied.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS of the mail date of this decision. Extensions of this time period are governed by 37 C.F.R. § 1.136(a). No further petition fee is required.

Henry Phan

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

JUL 18 2005

OFFICE OF PETITIONS

In re Application of
Shlomit Gilad, et al.
Application No. 09/833,031
Filed: April 11, 2001
Attorney Docket No. GILAD=2B

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 3, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before June 1, 2005. Receipt is acknowledged of the requisite issue/publication fee on June 3, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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
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Alexandria, VA 22313-1450
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Paper No. 19

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Gabriele et al.	:	
Application No. 09/833,036	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. 02208-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 9, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 13, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on September 14, 2003. A Notice of Abandonment was mailed on November 19, 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 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

SEP 15 2005

OFFICE OF PETITIONS

In re Application Rosen et al. Application No. 09/833,041 Filed: April 12, 2001 Atty Docket No. 6832.0016	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT" filed October 19, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred two (402) days to four hundred eighteen (418) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. For the reasons set forth herein, the initial determination of 402 days of patent term adjustment is correct.

On February 20, 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 402 days. The period of adjustment of 418 days for Office delay was reduced by 16 days for applicant delay. On October 19, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 16 days attributed to delay in responding to the Notice to File Missing Parts of Application mailed June 8, 2001.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] PALM records indicate that the Issue Fee was also received in the Office on October 19, 2004.

As to the 16 day delay entered by the Office, applicants are correct. Their response to the Notice to File Missing Parts of Application mailed June 8, 2001, is of record in the application with a date of receipt by the Office of August 8, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 16 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

However, a review of the application history reveals the basis for the entry of an additional period of reduction. Pursuant to 37 CFR § 1.704(c)(8), the 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, is a failure to engage in reasonable efforts to conclude prosecution. After filing the Request for Continued Examination (RCE) and amendment on May 18, 2004, on June 3, 2004, applicants filed a supplemental response. The record does not support a conclusion that this response was expressly requested by the examiner. Accordingly, the PTA should be reduced by 16 days, the number of days beginning on the day after the date the reply was filed, May 19, 2004, and ending on the date that the supplemental reply was filed, June 3, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred two (402) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/20/2006

TO SPE OF : ART UNIT 1600 (1653)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,994,857

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter sequence listing as requested in COCIN?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

All changes requested are proper and doesnot affect patentability.

SPE

1656
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Peter O'Hanley et al	:
Serial No.: 09/833,079	: WITHDRAWAL OF ATTORNEY
Filed: April 12, 2001	:
Attorney Docket No.: 050393-0104	:

This is in response to applicants' attorneys' request, filed March 4, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MAIL

Paper No. 6

MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ward & Olivo
708 Third Ave.
New York NY 10017

In re Application of
Gregory J. Speicher
Application No. 09/833,099
Filed: April 11, 2001
For: INTERNET-AUDIOTEXT ELECTRONIC ADVERTISING SYSTEM WITH PSYCHOGRAPHIC PROFILING AND MATCHING

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition to Revive Abandoned Application filed November 14, 2003, and supplemented via facsimile submission on February 6, 2004, which is treated as a Petition for Withdrawal of Abandonment pursuant to MPEP §711.03(c)(II) and 37 C.F.R. § 1.181(a). No fee is required.

This application was held abandoned for failure to timely submit a response to the Notice to File Missing Parts mailed May 1, 2001 (paper No. 2). A Notice of Abandonment was mailed October 27, 2003 (paper No. 4).

Petitioner alleges that the Notice to File Missing Parts 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), 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 satisfied the requirements set forth above. The petition is **GRANTED.**

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Office of Initial Patent Examination for mailing of a new Notice To File Missing Parts.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Finnegan, Henderson, Farabow,Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Patent of Rosen et al
Patent No. 6,905,688
Issue date: June 14, 2005
Application No. 09/833,118
Filed: April 12, 2001
Attorney Docket No.6832.0017

Application For Patent Term Adjustment Pre-Grant

This is in response to the "Application for Patent Term Adjustment Pre-Grant" timely[1] filed on September 3, 2004 requesting that the Office adjust the Patent Term Adjustment amount at the time of the mailing of the notice of allowance from 364 days to an amount of 377 days.

Applicant's Application for PTA is **GRANTED to the extent herein indicated**.

The Office will adjust the Patent Term Adjustment by adding an additional 13 days to the determined amount of PTA and *sua sponte* issue a certificate of correction to reflect this decision. The Office will also adjust the PAIR calculation to reflect this decision.

Applicants assert that they did not fail to engage in any reasonable efforts to conclude prosecution of the application

[1]Issue fee paid on September 3, 2004.

because they responded to the Notice to File Missing Parts on January 18, 2002. Accordingly, they assert that the 13 day reduction pursuant to 37 CFR 1.704(b)is in error.

A review of the file reflects that the response to the notice to file missing parts was submitted on January 18, 2002 as asserted by applicants. Moreover, applicants response was complete. Accordingly, applicants responded timely to the notice to file missing parts and did not fail to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(b).

The office issued the application with a total of four hundred and six days (406). After the notice of allowance, the Office failed to issue the application within four months of the payment of the issue fee and other requirements being satisfied pursuant to 37 CFR 1.702(a)(4), a delay of one hundred and sixty-two(162) days. However, applicants failed to engage in reasonable efforts to conclude prosecution of the application by a submission pursuant to 37 CFR 1.704(c)(10), a one hundred and twenty (120) day delay. Accordingly, the proper amount of PTA is four hundred and nineteen (419) days.

The acknowledges the submission of the application fee of $200.00. No additional fees are necessary.

After the mailing of this decision, the Office will forward this application to the certificate of correction branch for a prompt issuance of a certificate of correction.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries
for

Karin Ferriter

Senior Legal Advisor

Office of Patent Legal Adminstration

Office of Deputy Commission

for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **03/20/2006**

TO SPE OF : ART UNIT **1600 (1653)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,905,688**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to delete and enter sequence listing as requested in COCIN?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

All changes requested are approved and doesn't affect patentability.

Kathy K
SPE

1656
Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

CARLSON GASKEY & OLDS
400 W. MAPLE ROAD, STE 350
BIRMINGHAM, MI 48009

COPY MAILED

MAR 2 9 2002

OFFICE OF PETITIONS

In re Application of
Craig Rae Fowler et al
Application No. 09/833,165
Filed: April 11, 2001
Attorney Docket No. 60,130-788

DECISION REFUSING 37 CFR 1.47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed April 11, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Barry, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay, will not normally be accepted.

In the instant case, petitioner states that several attempts were made to contact nonsigning inventor Barry at his address and that letters and copies of the application were sent to Mr. Barry on June 26, 2000 and October 18, 2000. Petitioner has not indicated what attempts were made to reach nonsigning inventor Barry, only that "several attempts were made," nor has petitioner submitted copies of the correspondence mailed to Mr. Barry indicating what was actually mailed or as to whether these mailings ever reached the intended addressee. Since it is presumed that the correspondence was returned as undeliverable, petitioner must state what attempts were made to locate the inventor after the mailing of the letters and copies of application sent to Mr. Barry on June 26, 2000 and October 18, 2000. At the very least, a search should be made of the telephone directories and any regional or national registry(s). Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d).

Additionally, petitioner should state what inspection of the assignee's personnel records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Has any of inventor Barry's former co-workers kept in touch with him? Has petitioner attempted to locate inventor Barry on the Internet? If so, what were the results of the Internet search? If inventor Barry is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to Mr. Barry's address, return receipt requested, along with a cover letter of instructions which includes 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. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that inventor Barry cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If inventor Barry is located and the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of 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

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
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Paper No. 11

CARLSON GASKEY & OLDS
400 W MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:
Craig Rae Fowler et al	:DECISION NOTING JOINDER OF
Application No. 09/833,165	:INVENTOR AND PETITION UNDER
Filed: April 11, 2001	:37 CFR 1.47(a) MOOT
Atotrney Docket No. 60,130-788	:

Papers filed on July 8, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed March 29, 2002, included a Declaration signed by previously nonsigning inventor David M. Barry in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center AU 2834 for examination in due course.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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AUG 11 2009

OFFICE OF PETITIONS

PFIZER INC
PATENT DEPARTMENT
Bld 114 M/S 114
EASTERN POINT ROAD
GROTON CT 06340

In re Application of	:	
Lee, et al.	:	
Application No. 09/833,169	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. PC10636ATMC	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 8, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 9, 2008. The Office mailed a Notice of Abandonment on December 15, 2008.

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 a continuation application.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above identified application is again abandoned in favor of the continuation application, no. 12/494,444, filed June 30, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Daimler Chrysler Intellectual Capital Corporation
CIMS 483-02-19
800 Chrysler Drive East
Auburn Hills, MI 48326-2757

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph A. Hinkle, et al.	:	
Application No. 09/833,183	:	ON PETITION
Filed: April 11, 2001	:	
Attorney Docket No. 705570US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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MAY 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Gene C. Koch :
Application No. 09/833,201 : ON PETITION
Filed: April 10, 2001 :
Attorney Docket No. 17663J-003810 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 16, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 17, 2002.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power

of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1774.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DEBORAH K. HENSCHEID
7150 E. CAMELBACK RD
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SCOTTSDALE, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

JUN - 4 2004

Mailed:_____

rvk

Paper Number: 14

In re application of
Jameel Menashi
Serial No. 09/833,202
Filed: April 11, 2001
For: FUEL CELLS AND OTHER PRODUCTS CONTAINING MODIFIED CARBON PRODUCTS :

DECISION ON PETITION

This is a response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT", filed January 27, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 18, 2003, for failure to timely file a proper response to the Office letter mailed on March 31, 2003 be withdrawn. The petitioner asserts that applicant timely filed a proper response to the office letter of March 31, 2003 on June 30, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did reply to the Office letter of March 31, 2003 in a timely manner. The submitted evidence are copies of the following documents : (1)Response to the Office letter of March 31, 2003 and cover sheet submitted by facsimile along with a Certificate of Transmission by Facsimile dated June 30, 2003; (2)An Auto-Reply Facsimile Transmission showing a copy of the response cover sheet and confirming receipt of ten(10) pages on June 30, 2003; and (3) Declaration and Power of Attorney.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The case will be forwarded to the Technical Support Staff for entering of the Response/Declaration and Power of Attorney and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MARTHA ANN FINNEGAN, ESQ
CARBOT CORPORATION
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JUN 21 2006

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Zauderer, et al.	: DECISION ON PETITION
Application No. 09/833,203	:
Filed: April 12, 2001	:
Atty. Dkt. No.: 1821.0020001	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed March 24, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed May 23, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a 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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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 final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 1400 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
KLINKER et al	:	
Application No.: 09/833,219	:	DECISION ON PETITION
Filing Date: April 10, 2001	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 52224/294510	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 19, 2007.

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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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PHILIP S. JOHNSON
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In re Application of Ning Qin, et al. Application No. 09/833,222 Filed: April 11, 2001 Attorney Docket No. ORT-1414	: : : : :	ON PETITION

This is a decision in response to the petition, filed April 16, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed August 22, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 23, 2007. A Notice of Abandonment was mailed on April 8, 2008. In response, on April 16, 2008, 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 $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1647 for appropriate action by the Examiner in the normal course of business on the reply received April 16, 2008.

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