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)
6867942	2005-03-15	09842030	2001-04-26	TUC920010002US1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark James Spolyar/	Date (YYYY-MM-DD)	2010-02-04
Name	Mark James Spolyar	Registration Number	42164

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. 6867942
Issue Date: March 15,2005
Application No. 09842030
Filed: April 26,2001
Attorney Docket No. TUC920010002US1

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

This is a decision on the electronic petition, filed February 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 February 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20037-3213

COPY MAILED

NOV 1 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,892,452 :
Issued: May 17, 2005 :
Application No. 09/842,047 : ON PETITION
Filed: April 26, 2001 :
Attorney Docket Number: Q64291 :

This is a decision on the petition, filed August 17, 2005, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, Fujikura, Ltd., was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b). Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, the copy of the recorded assignment reflect that Fujikura, Ltd., is an assignee of an undivided one half interest in the patent identified above. Accordingly,

---

[1] *See* Official Gazette of June 22, 2004

as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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.

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

COPY MAILED

AUG 1 5 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Isao Ichimura et al
Application No. 09/783,998
Filed: February 16, 2001
Attorney Docket No. 203312US6

This is a decision on the petition, filed August 14, 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 May 7, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2697 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

RECEIVED: 8-18-03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8/18/03
Type of Resp(s):
Due Date(s):

[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

NE

Mailed: 11-30-05

In re application of	:	
Payton et al.	:	DECISION ON
Serial No. 09/842195	:	PETITION
Filed: April 26, 2001	:	
For: PH CONTROL OF SAUCES USED ON ACIDIFIED PASTA	:	
OR RICE	:	

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT for failure to respond to an office action mailed May 13 2004 by the end of the sixth month statutory period. The petitioner requests that abandonment be withdrawn since the applicant did not receive the Office letter mailed May 13, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter mailed May 13, 2004. The evidence provided includes a statement by the petitioner that the Office letter mailed May 13, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed May 13, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed May 13, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt re-mailing of the Office letter originally mailed May 13, 2004 and restarting of the period of response from the re-mail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L Street, N.W., Suite 850
Washington, D.C. 20036

UNITED STATES 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

JUN 07 2010

OFFICE OF PETITIONS

Harbin & Hein PLLC
500 9th Street SE
Washington DC 20003

In re Patent No. 6,891,890 :
Issue Date: May 10, 2005 :
Application No. 09/842,199 : ON PETITION
Filed: April 24, 2001 :
Attorney Docket No. VWE-001-2 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 5, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 11, 2009 for failure to pay the 3.5-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 a 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 an 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/842,199	04/24/2001	Cheung Auyeung	VWE-001-2

CONFIRMATION NO. 5415

POWER OF ATTORNEY NOTICE

22888
BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

OC000000041801790

Date Mailed: 05/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/crgrant/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
09/842,199	04/24/2001	Cheung Auyeung	VWE-001-2

CONFIRMATION NO. 5415

POWER OF ATTORNEY NOTICE

22888
BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

OC000000041801790

Date Mailed: 05/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/crgrant/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Harbin & Hein PLLC
500 9th Street SE
Washington DC 20003

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Patent No. 6,934,332 :
Issue Date: August 23, 2005 :
Application No. 09/842,201 : ON PETITION
Filed: April 24, 2001 :
Attorney Docket No. VWE-001-1 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 5, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 24, 2009 for failure to pay the 3.5-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 a 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 an 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

AUG 11 2004
Mailed:

rvk
Paper Number:

In re application of:
Nathan S. Lewis et al
Serial No. 09/842,204
Filed: April 24, 2001
For: SPATIOTEMPORAL AND GEOMETRIC OPTIMIZATION OF SENSOR ARRAYS FOR DETECTING ANALYTES FLUIDS:

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW NOTICE OF ABANDONMENT, filed June 14, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 24, 2004, for failure to timely file a proper response to the Office letter dated September 24, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response on October 20, 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 applicants did file the proper response to the Office letter of September 24, 2003 in a timely manner. The evidence provided includes: 1) a copy of the Response to the Office letter of September 24, 2003 with an executed Certificate of Mailing on October 23, 2003; and 2) a copy of the returned stamped postcard confirming receipt of the Response by the USPTO dated October 27, 2004.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated October 20, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
SUITE 500
4350 LA JOLLA VILLAGE DRIVE
SAN DIEGO, CA 92122

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MAIL

MAY 0 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Cooley Godward LLP
Att: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

In re Application of: Saul Kato	)	
Application No. 09/842,359	)	
Filed: 24 April 2001	)	**DECISION ON REQUEST FOR**
For: APPARATUS AND METHOD FOR	)	**WITHDRAWAL AS ATTORNEY**
COMMUNICATING INFORMATION	)	
TO PROTABLE COMPUTING		
DEVICES		

This is a decision on the Request To Withdraw from Representation filed February 20, 2002.

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

The request filed February 20, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Saul Kato
WIDERAY CORPORATION
25 Maiden Lane, Suite 500
San Francisco, CA 94108

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

COPY MAILED

AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of Frances Yen-Potin, Blake Denison, Barbara Bour, Bernard Bihain, Jean Baptiste Dumas Milne-Edwards, Aymeric Duclert and Lydie Bougueleret Application No. 09/842,364 Filed: April 25, 2001 Attorney Docket No. GENSET.50CP2C Title: APOLIPOPROTEIN A-IV-RELATED PROTEIN: POLYPEPTIDE, POLYNUCLEOTIDE SEQUENCES AND BIALLELIC MARKERS THEREOF	DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the petition, filed April 12, 2002, under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on April 25, 2001, without the statutory basic filing fee, with additional claim fees due, and without an executed oath or declaration. Frances Yen-Potin, Blake Denison, Barbara Bour, Bernard Bihain, Jean Baptiste Dumas Milne-Edwards, Aymeric Duclert and Lydie Bougueleret were named as joint inventors. Accordingly, on October 9, 2001, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring the missing fees, an executed oath or declaration, and the surcharge under §1.16(e) for late filing. This Notice set a two-month period for reply with extensions of time obtainable under §1.136(a).

In reply, rule 47 applicants filed the instant petition, and submitted payment of the petition fee ($130), the surcharge under §1.16(e)($65), and petition for extension of time for response within the fifth month and fee ($980) to make the reply timely. Applicants assert that acceptance of the declarations under §1.47 is proper because inventors Yen-Potin, Bour and Bihain refuse to join in the application. In support thereof, applicants submitted a declaration of patent administrator Cindy McClure with documentary evidence of the presentation of the application papers for signature to the non-signing inventors.

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(s).

By declaration of Cindy McClure and supporting documentary evidence, applicants have shown that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each of the non-signing inventors, and that by their conduct, each has refused to join in the application. Accompanying the petition were declarations executed in combination by joint inventors Denison, Dumas Milne-Edwards, Duclert and Bougueleret on behalf of themselves and on behalf of non-signing joint inventors Yen-Potin, Bour and Bihain. This declaration filed April 12, 2002 has been reviewed and found in compliance with §1.63. Moreover, the petition submitted included the petition fee and a statement of the last known address of the non-signing inventors.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

THOMAS A. O'ROURKE
WYATT, GERBER & O'ROURKE
99 PARK AVENUE
NEW YORK, NY 10016

COPY MAILED

FEB 12 2004

OFFICE OF PETITIONS

In re Application of
Breidenbach et al.
Application No. 09/842,371
Filed: April 25, 2001
For: Dual Cosmetic Container

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 5, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely and proper manner to the Notice to File Missing Parts of Application (Notice) mailed June 21, 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 22, 2001. A Notice of Abandonment was mailed on October 24, 2003.

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

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

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

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

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

cc: Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE, NY 11747

COPY MAILED

SEP 30 2005

OFFICE OF PETITIONS

In re Application of
Diane C. Breidenbach et al
Application No. 09/842,371
Filed: April 25, 2001
For: DUAL COSMETIC CONTAINER

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed October 28, 2004, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition filed October 28, 2004 includes all of the requirements above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

This matter is being referred to the Technology Center Art Unit 3751 for expedited prosecution.

David Bucci for

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE NY 11747

COPY MAILED

JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Diane C. BREIDENBACH et al.	:	
Application No. 09/842,371	:	DECISION ON PETITION
Filed: April 25, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 30, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 01, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3) in that there is no statement about the delay being unintentional. A copy of the PTO/SB/64 is attached for petitioner's use.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. 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.

OIPE
APR 24 2008
PATENT & TRADEMARK OFFICE

04/25/08

1 F/DAC/#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Diane Breidenbach, et.al.

SERIAL NO.: 09/842,371

FILED: April 25, 2001

FOR: Dual Cosmetic Container

Hon. Commissioner of Patents
and Trademarks
PO 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE APPLICATION FOR UNINTENTIONAL
FAILURE TO RESPOND TO OFFICE ACTION

Dear Sirs:

Applicant hereby petitions to revive the above-identified application which was unintentionally abandoned for failure to respond to an office action dated of January 30, 2007.

The application became abandoned when the requisite response was not filed by the due date. As soon as it was realized that the application became abandoned this petition was prepared and submitted to the Patent & Trademark Office. The failure to respond to the office action was unintentional.

Respectfully submitted,

04/25/2008 CNGUYEN2 00000023 09842371
01 FC:2453 770.00 OP

Thomas A. O'Rourke
Reg. No. 27,665
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747
(631)249-7500

OIPE
APR 2 4 2008
PATENT & TRADEMARK OFFICE

If any additional fees are due or an overpayment has been made, please charge Deposit Account No. 50-3070, or credit our deposit account for such sum.

Thomas A. O'Rourke
Reg. No.: 27,665
BODNER & O'ROURKE, L.L.P.
425 Broadhollow Road
Melville, NY 11747
(631)249-7500

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE NY 11747

COPY MAILED
SEP 16 2008

In re Application of	:	
Diane C. BREIDENBACH et al.	:	
Application No. 09/842,371	:	DECISION ON PETITION
Filed: April 25, 2001	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2008, 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, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 01, 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 of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of January 30, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3751 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. 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: Breidencach, Diane, et.al.

Application No.: 09/842,371

Filed: April 25, 2001

Title: Dual Cosmetic Container

OIPE IAP63
JUL 14 2008
PATENT & TRADEMARK OFFICE

Art Unit: 3751

Examiner: Nguyen, Tuan N.

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 $ 770.00 (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 Amendment (identify type of reply):

☑ has been filed previously on April 24, 2008.
☐ 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	07/10/2008 Date
Thomas A. O'Rourke Typed or printed name	27,665 Registration Number, if applicable
Bodner & O'Rourke, LLP Address	(631)249-7500 Telephone Number
425 Broadhollow Rd., Ste. 108, Melville, New York 11747 Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☑ Other: Request for Reconsideration, Fee Paid 04/24/2008

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.

07/10/2008 Date	Signature
	Thomas A. O'Rourke Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

THOMAS A. O'ROURKE
WYATT, GERBER & O'ROURKE
99 PARK AVENUE
NEW YORK, NY 10016

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Breidenbach et al.
Application No. 09/842,372
Filed: April 25, 2001
For: Dual Ended Lip Cosmetic Applicator

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 5, 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 October 1, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 2, 2003. A Notice of Abandonment was mailed on May 6, 2003.

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

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

The file is now being forwarded to Technology Center 3700 for 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

cc: Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747

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

Risto A. Rinne, Jr.
2169 East Francisco Blvd., Suite A
San Rafael, CA 94901

JUN 11 2003

In re Application of	:	
Roger C. Williams et al.	:	DECISION *SUA SPONTE*
Serial No.: 09/842,386	:	WITHDRAWING HOLDING
Filed: April 25, 2001	:	OF ABANDONMENT
Attorney's Docket No.: BIW-RIN6	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A final Office action was mailed on November 19, 2002. On June 4, 2003, a Notice of Abandonment was mailed which held the application abandoned for failure to timely file a proper reply to the final Office action. However, on May 27, 2003, a Request for Continued Examination (RCE), an amendment, and a Petition and Fee for Extension of Time (EOT) were filed. The RCE, amendment and EOT each included a Certificate of Mailing under 37 C.F.R. § 1.8(a). The Certificates of Mailing are all dated May 19, 2003 which makes the RCE, amendment and EOT a timely response to the final Office action.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the timely response.

The application file is being forwarded to the Technical Support Staff of Technology Center 2800 for processing of the response. The application will then be forwarded to the examiner for consideration of the amendment.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fernandez & Associates LLP
PO Box D
Menlo Park, CA 94026-6402

MAILED

NOV 0 5 2004

Technology Center 2100

In re Application of:
Daniel D. GROVE, et al.
Application No. 09/842,387
Filed: April 25, 2001
For: METHOD AND SYSTEM FOR A RAPID INSERTION OF VARIOUS DATA STREAMS INTO SORTED TREE STRUCTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed July 15, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla LLP as the attorney (s) of record of the instant application. The Power of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla LLP.

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

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Martine & Penilla LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

MEDTRONIC INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Chester Struble	:	
Application No. 09/842,404	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. P-8032	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 12, 2003 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 7, 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 December 8, 2002.

Pursuant to petitioner's authorization, Deposit Account No. 13-2546 was charged $1,300.00 for the petition to revive an unintentionally abandoned application .

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

The application file is being forwarded to Technology Center AU 3762.

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

APR 13 2005

Medtronic, Inc.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

In re Application of Chester L. Struble Serial No. : 09/842,404 Filed : April 26, 2001 For : Diagnostic Features in Bi-Atrial and/or Bi-Ventricular Pacing Systems	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed November 4, 2004, to review the holding of abandonment mailed October 19, 2004 for failure to file a proper response to the Office action mailed March 22, 2004. There is no fee required for this petition.

In support of the request and as required by 37 CFR 1.8(b), petitioner has submitted a copy of a communication that included a Request for Continued Prosecution (RCE), a one-month extension of time request, and a Certificate of Transmission under 37 CFR 1.8, all bearing a certificate of facsimile transmission dated July 27, 2004. Petitioner has also included a copy of the Auto-Reply Facsimile Transmission from the Patent Office confirming the successful and timely transmission of the papers in question on July 27, 2004. It is noted that per the Advisory Action mailed July 12, 2004, the extension fee under 37 CFR 1.17(a) was to be calculated from the mailing date of the Advisory Action. Thus, the one-month extension of time request was proper and sufficient to establish the timely filing of the RCE.

In view of the above, the Notice of Abandonment mailed October 19, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry, processing, and consideration of the RCE filed July 27, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/12/05

HAP

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.
09/842,408	04/24/2001	Nick Merz	APL1P202/P2625	9091

22434 7590 03/02/2005
BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER
LEA EDMONDS, LISA S

ART UNIT	PAPER NUMBER
2835	

DATE MAILED: 03/02/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 020505

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

In re Application of:	:	
Nick Merz et al.	:	ANENDMENT, PETITION AND FEE TO
Serial No.: 09/842,408	:	CORRECT ORIGINALLY NAMED
Filed: April 24, 2001	:	INVENTORS
Attorney Docket No.: **APL1P202/P2625**	:	UNDER 37 C.F.R. § 1.48(b)

The purpose of this communication is to inform you that the above-identified petition to correct originally named inventors pursuant to 37 C.F.R. § 1.48(b) has been **GRANTED**.

In view of the papers filed 12/06/04, the inventorship in this non-provisional application has been changed by the deletion of **STEPHEN ZADESKY**.

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

Lisa Lea-Edmonds

Lisa Lea-Edmonds
Primary Examiner
Art Unit: 2835

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRYAN K. WHEELOCK
HARNESS DICKEY & PIERCE PLC
7700 BONHOMMW, SUITE 400
ST. LOUIS, MO 63105

COPY MAILED

JUN 2 7 2007

OFFICE OF PETITIONS

In re Application of :
RITTER, et al. :
Application No. 09/842,417 : DECISION ON PETITION
Filed: April 25, 2001 :
Attorney Docket No. **5236-000227** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 9, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 10, 2006.

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

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with Appeal Fee of $500; (2) the petition fee of $1500; 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 Technology Center AU 3737 for consideration of the appeal brief filed April 10, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **KEVIN PUMM**
HARNESS DICKEY PIERCE PLC
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GROSSMAN TUCKER TERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

COPY MAILED

FEB 04 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven J. Tallarida et al :
Application No. 09/842,458 :
Filed: April 26, 2001 :
Attorney Docket No. STD 00.02

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

DUNLAP CODDING & ROGERS P.C.
9400 NORTH BROADWAY
SUITE 420
OKLAHOMA CITY OK 73114

COPY MAILED

APR 15 2002

OFFICE OF PETITIONS

In re Application of
PAUL L. DEANGELIS
Application No. 09/842,484
Filed: April 25, 2001
Attorney Docket No. 5820.601

DECISION DISMISSING PETITION

This is a decision on the petition filed August 24, 2001, requesting that the above-identified application be accorded a filing date of April 25, 2001, with Figure 2 as a part of the original disclosure.

The petition is dismissed.

The application was filed on April 25, 2001. However, on June 26, 2001, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that the application had been accorded a filing date of April 25, 2001; however, Figure 2 appeared to have been omitted.

In response, on August 24, 2001, applicant filed the present petition and a copy of Figure 2. Applicant admits that Figure 2 was not submitted with the original application papers due to a clerical error. However, applicant argues that the omitted Figure 2 does not contain any new matter, and therefore, should be accorded a filing date of April 25, 2001.

Whether Figure 2, filed on August 24, 2001, contains new matter is not the issue. Either Figure 2 was present in the Office on the filing date of the application or it was not. Because Figure 2 was not present on April 25, 2001, it cannot be considered a part of the original disclosure of the application. Therefore, the application cannot be accorded the filing date of April 25, 2001, with Figure 2 as a part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

Since applicant seeks to add the drawing of Figure 2 to the above-identified application on the basis that the drawing is not new matter, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See MPEP § 608.02(a). The appropriate procedure is by way of amendment requesting the entry of Figure 2. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

The petition fee will not be refunded because the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 25, 2001, using Figures 1 and 3-10 filed on that date.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Masayuki Nishiguchi et al :
Application No. 09/842,542 : DECISION ON PETITION
Filed: April 26, 2001 :
Attorney Docket No. 277923US6DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2615 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

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

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of
Nigshiguchi, et al.
Application No. 09/842,542
Filed: 26 April, 2001
Patent No. 7,330,553
Issue Date: 12 February, 2008
Attorney Docket No. 277923US6DIV

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.181(A)(2), filed on 23 June, 2008, considered also a petition pursuant to 37 C.F.R. §1.182, and 37 C.F.R. §1.183, requesting that a terminal disclaimer recorded in prior-filed Application No. 07/600,818 (the '818 application), filed on 22 October, 1990, which issued as U.S. Patent No. 5,640,458 (the '458 patent), on 13 June, 1994, be withdrawn or nullified with regard its effect on the term of this patent.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition as considered under 37 C.F.R. §1.182 is **DISMISSED**; and the petition as considered under 37 C.F.R. §1.183 is **DISMISSED**.

Petitioner requests that the Director nullify any effect of the terminal disclaimer filed on 13 June, in the above-referenced prior-filed '818 application on the '758 patent, which issued from Application No. 08/887,417 (the '417 application).

Petitioner states:

> Initially, Patentee respectfully request that 37 C.F.R. §1.182(f) (sic) [1.181(f)] be suspended. Rule 182(f) (sic) [1.181(f)] indicates that a petition not filed within two months of the action or notice from which relief is sought may be dismissed as untimely. However, under 37 C.F.R. § 1.183, the Director, or the Director's designee, may suspend or waive a Rule in the event of extraordinary circumstances or when justice requires. Patentee submits that the present situation is such a case.

Petitioner's argument was considered but was not persuasive.

Petitioner cites to the Commentary at MPEP §1490.

The guidance in the Commentary at MPEP §1490 provides in pertinent part:

> While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).
>
> The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).(Emphasis supplied.)

Petitioner must show why the terminal disclaimer filed in the '818 application, to which the subject application claims benefit under 35 U.S.C. §120, should not be given full effect in the succeeding patents, including the '553 patent, which issued from the '542 application.

The decision in the '458 patent concerning the petition to withdraw the terminal disclaimer set forth the reasons why the terminal disclaimer will not be withdrawn or nullified in the '818 application/the '458 patent.

It is noted that there is a consistent result as to the effect of the terminal disclaimer filed in the '818 application can be nullified or withdrawn with regard to Patent No. 7,337,027 (the '027 patent), which issued from Application No. 11/158,880 (the '880 application, an application claiming benefit under 35 U.S.C. §120 to the '818 application.

The terminal disclaimer filed on June 13, 1994, in the '818 application states that Petitioner "hereby disclaims the terminal twenty-six (26) months of any patent granted on Application Serial No. 07/600,818 or on any application which is entitled to the benefit of the filing date of said Application No. Serial No. 07/600,818 under 35 U.S.C. §120."

In claiming the benefit under 35 U.S.C. §120 of the '818 application in the '880 application, Petitioner acquiesced to any and all limitations on the patent term of any patent issuing from the '880 application, as imposed by the terminal disclaimer filed in the '818 application.

Again: public policy, as a general principle, does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).

The balance of equities does not merit the Director overruling the well-settled public policy that precludes restoration to the patent owner of something that has been freely dedicated to the public in favor of correcting after issuance of the patent—and a period of delay. The showing of record is that Petitioner did not file the petition to withdraw the terminal disclaimer in the '818 application until an extended period after the '458 patent had issued, and has not provided an adequate explanation of neither the delay in filing the petition, nor a sufficient reason why the Director should grant the requested relief under 37 C.F.R. 1.182.

Considered pursuant to 37 C.F.R. §1.183, Petitioner's argument is not persuasive.

The regulations at 37 C.F.R. §1.183 provide that in an extraordinary situation, when justice requires, a requirement of the regulations which is not statutory may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

The facts presented on the record do not establish an extraordinary situation. Petitioners have not established any special circumstances or equities that would require suspension of the rules in the interests of justice. It is noted that Petitioner has not identified a particular rule the waiver of which would provide the relief requested.

Moreover, 35 U.S.C. §120 states that an application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of Title 35 U.S.C. in an application previously filed in the United States, or as provided by section 363 of Title 35 U.S.C., which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

Thus, to the extent that the term of the '458 patent is limited by the terminal disclaimer filed in the '818 application and the '553 patent claims benefit of the '818 application under 35 U.S.C. §120, the claim of benefit is statutory.

Accordingly, the Office lacks the authority or discretion to relax any requirement of law.[1] The Office is an executive branch agency, and so the Office must follow the strict provisions of the applicable statute.

As such, to the extent that the '458 patent which issued from the '818 application, to which the '542 application claims benefit under 35 U.S.C. §120, is subject to the terminal disclaimer at issue, any patent which issued from an continuing application filed under 35 U.S.C. §120, which claims the benefit of the '818 application, is, by statute, subject to all of the limitations which apply to the '818 application, the '458 patent, and any applications for patent claiming benefit under 35 U.S.C. §120 thereto—including the instant '542 application, which issued as the '553 patent.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**; the petition as considered under 37 C.F.R. §1.182 is **dismissed**; and the petition as considered under 37 C.F.R. §1.183 is **dismissed**.

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

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

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

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

[1] *See: Baxter Int'l, Inc. v. McGaw, Inc.*, 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); *A. F. Stoddard v. Dann*, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977)

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) 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/Caller's action(s).

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

Conferee: Anthony Knight, Supervisor, Office of Petitions

[2] 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

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

MAIL

MAR 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 11

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

In re Application of
Mark Rumer
Application No. 09/842,559
Filed: April 25, 2001
For: ETHERNET BASED TDM SWITCH

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed October 16, 2003 under 37 C.F.R. 1.137 requesting the withdrawal of the holding of abandonment, which is treated as a petition to withdraw holding of abandonment pursuant to 37 C.F.R. § 1.181 and MPEP 711.03(c). No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed on January 29, 2003. A Notice of Abandonment was mailed on September 26, 2003.

Petitioner asserts that a proper response was in fact timely filed in the form of a Request for Continued Examination and amendment. In support of the petition, petitioner submitted a copy of a date-stamped post card receipt acknowledging receipt of the Request for Continued Examination, the amendment and the RCE fee, among other items, in the United States Patent and Trademark Office (Office) on May 6, 2003. Petitioner submitted copies of the aforementioned RCE transmittal and amendment with the instant petition.

The original response is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, " [a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The United States Patent and Trademark Office's Revenue Accounting and Management software indicates that the fee for the Request for Continued Examination was in fact received and processed on May 6, 2003. Accordingly, it is concluded that the Request for Continued Examination and amendment was received in the Office but was not matched with the application file.

MPEP §512 states in part "Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign Country. [emphasis added]

The date-stamped on the post card of May 6, 2003, is after the due date for the response. However, under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 amendment and Request for Continued Examination bears a proper certificate of mailing in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for processing of the Request for Continued Examination and entry of the amendment. Thereafter, the application file will be forwarded to the examiner for action in due course.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 0.5 2006

OFFICE OF PETITIONS

TRAN & ASSOCIATES
6768 Meadow Vista Ct.
San Jose, CA 95135

In re Application of
TRAN
Application No.: 09/842,599
Filing Date: April 25, 2001
Docket No.: TRAN00001/002
For: SYSTEM AND METHODS FOR TRADING INTELLECTUAL PROPERTY

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 9, 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 Notice of Non-Compliant Amendment ("Notice") mailed May 2, 2005. The Notice required amended claims with status identifiers. This Notice set a one (1) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted amended claims in response to the Notice. The petition fee to revive under 37 CFR 1.137(b) is $750.00 not $250.00. This fee has been charged to Deposit Account No. 50-3398 as authorized. Applicant submitted 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 3624 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

PATREA L. PABST, ESQ.
HOLLAND & KNIGHT
STE. 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3400

COPY MAILED

APR 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Philip L. Taylor	:	
Application No. 09/842,613	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. MBX 034 CON (2)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 24, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2001.

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 1714.

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. 7

John Moetteli
BUGNION S.A.
Case postale 375
GENEVA 12 CH 1211 CH SWITZERLAND

COPY MAILED

AUG 27 2003

OFFICE OF PETITIONS

In re Application of
Guy Dupielet Norbert, et al.
Application No. 09/842,659
Filed: April 27, 2001
Attorney Docket No. 2.S649.374.C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), submitted by facsimile transmission on July 23, 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 August 1, 2001, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 2, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 2800, Art Unit 2837 for processing the Request for Continued Examination under 37 CFR 1.114, submitted by facsimile transmission on July 23, 2003.

Cheryl Gibson Baylor

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HAVERSTOCK & OWENS
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

COPY MAILED

JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Louis Bouchard :
Application No. 09/842,747 : DECISION GRANTING PETITION
Filed: April 25, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AVALUC-01800 :

This is a decision on the petition, filed June 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 April 4, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

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

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAPER NO.

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Ito et al.	:	
Application No. 09/842,778	:	LETTER REGARDING
Filed: April 27, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 1945-347	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed January 10, 2005. Applicants state that the initial determination of patent term adjustment for this case should be 90 days, not 97 days.

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

On October 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 to date is 97 days. Applicants given no basis for their assertion that the correct PTA at the time of the mailing of the notice of allowance is 90 days.

The application history has been reviewed, and it has been determined that the initial determination of patent term adjustment of 97 days is correct based on the entries of record. The record does not reveal a basis for the 7 day discrepancy suggested by applicant.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks

applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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

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

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
09/842,791	04/27/2001	Chihiro Uematsu	H-853-02

CONFIRMATION NO. 7893

FORMALITIES LETTER

OC000000006065654

MATTINGLY, STANGER & MALUR
104 East Hume Avenue
Alexandria, VA 22301

OIPE JC131
JUL 11 2001
PATENT & TRADEMARK OFFICE

Date Mailed: 05/11/2001

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821 (g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of
Takashi Nakamura, et al.
Application No. 09/842,800
Filed: April 27, 2001
Attorney Docket No. 206608US2

ON PETITION

This is a decision on the petition, filed March 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2674 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC25
JUL 27 2005
PATENT & TRADEMARK OFFICE

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

COPY MAILED

MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Takashi Nakamura, et al. :
Application No. 09/842,800 : ON PETITION
Filed: April 27, 2001 :
Attorney Docket No. 206608US2 :

This is a decision on the petition, filed March 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2674 for further processing of the request for continued examination under 37 CFR 1.114.

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

RECEIVED: 3/14/05
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 3/14/05
Type of Resp(s): _____
Due Date(s): _____

[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).

office petition

DAC
IFW

OIPE JC25
JUL 27 2005
PATENT & TRADEMARK OFFICE

DOCKET NO.: 206608US2/sal

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: GROUP: 2674

Takashi NAKAMURA, et al.

SERIAL NO: 09/842,800 EXAMINER: WU, XIAO MIN

FILED: April 27, 2001

FOR: DISPLAY APPARATUS, IMAGE CONTROL SEMICONDUCTOR DEVICE, AND METHOD FOR DRIVING DISPLAY APPARATUS

APPLICATION OF PREVIOUSLY PAID ISSUE FEE IN ACCORDANCE WITH SECTION 1308.01 MPEP

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified application was withdrawn from Issue after payment of the Issue Fee in the amount of $1730.00 (Issue Fee $1400.00 + Pub. Fee $300.00 + Adv. Patent Copies $30.00).

The application has now been allowed again and since a refund of the previously paid Issue Fee has not been requested, it is now requested that the previously paid Issue Fee be applied to the Issue Fee being paid herewith. Enclosed herewith is a copy of the Petition Granted.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Joseph Scafetta Jr.

Marvin J. Spivak
Registration No. 24,913

Joseph Scafetta, Jr.
Registration No. 26,803

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 05/04)

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: 5/6/05 rld

In re application of	:	
Mendelsohn et al.	:	DECISION ON
Serial No. 09/842,818	:	PETITION
Filed: April 27, 2001	:	
For: METHOD FOR COMBINED REMOVAL OF MERCURY AND	:	
NITROGEN OXIDES FROM OFF-GAS STREAMS	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED, mailed March 11, 2004. The petitioner requests that the abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn. The requester asserts that the Notice of Allowance was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed November 21, 2003. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Issue Fee Due, mailed October 21, 2003, was not received, and a statement that a search of the file jacket and docket records indicate that the Notice of Allowance and Issue Fee Due was not received. Petitioner has also provided a copy of the application docket records where the Notice of Allowance would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul A. Gottlieb
United State Department of Energy
GC-62 (FORSTL) MS-6F-067
1000 Independence Ave, S.W.
Washington DC 20585-0162

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

COPY MAILED

MAY 0 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rovinski, et al. :
Application No. 09/842,883 :
Filed: April 27, 2001 :
Attorney Docket No. 1038-1142 MIS:jb :

This is a decision on the petition under 37 CFR 1.137(a), filed March 4, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the "Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Dislcosures" mailed July 10, 2002, which set a period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on August 11, 2002. A Notice of Abandonment was mailed on December 9, 2003.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the "Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Dislcosures" was not received.

With regard to item (1) above, a petition under 37 CFR 1.137 cannot be granted until a proper response to the Notice is received. In this case, a proper response would consists of:

- An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- A statement that he content of the paper and computer readable copies are the same and, where applicable include no new matter, as required by 37 CFR 1.821(e) or 1.821(g) or 1.825(b) or 1.825(d).

A proper response must accompany any renewed petition or a petition filed under 37 CFR 1.137(b). A copy of the "Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Dislcosures" is enclosed.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,330.00 for a large entity and $665.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

---

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]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 nonawarness 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.

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 should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:
Form PTO/SB/64
"Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Dislcosures

UNITED STATES 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

Sim & McBurney
330 University Avenue
6th Floor
Toronto, ON M5G 1R7 CA Canada

COPY MAILED
AUG 0 4 2004
OFFICE OF PETITIONS

In re Application of :
Rovinski, et al. :
Application No. 09/842,883 :
Filed: April 27, 2001 :
Attorney Docket No. 1038-1142 MIS:jb :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed July 7, 2004, to revive the above-identified application.

The renewed petition is **GRANTED.**

This application became abandoned for failure to timely reply to the "Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" ("Notice") mailed July 10, 2002. The Notice set a period for reply of one month from its mailing date. No response was believed to have been received within the allowable period and the application became abandoned on August 11, 2002. A Notice of Abandonment was mailed on December 9, 2003.

The sequence listing filed July 7, 2004, is noted.

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

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

Kenya A. McLaughlin
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

#17

JAN - 3 2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:
Masaharu Hayashi et al	:
Serial No.: 09/842,896	: PETITION DECISION
Filed: April 27, 2001	:
Attorney Docket No.: 0425-0836P	:

This is in response to applicants' petition under 37 CFR 1.181, filed November 26, 2002, requesting entry of an amendment filed after Final rejection.

A review of the file history shows that this application was filed April 27, 2001, and contained claims 1-9. On September 14, 2001, the examiner mailed a first Office action to applicants setting forth a restriction requirement in the form of an election of species based on the various compounds represented by formula I and formula II. Election of a single disclosed species was required. Applicants replied on October 15, 2001, with an appropriate election without traverse.

The examiner mailed a new Office action to applicants on December 17, 2001, setting forth a new restriction requirement as follows:

> Group I, claims 1-3 and 6-9, drawn to an organic acid derivative plant activating agent;
> Group II, claims 1, 4 and 6-9, drawn to a compound of formula II plant activating agent;
> Group III, claims 1, 5 and 6-9, drawn to a glycerol derivative plant activating agent.

The examiner reasoned that the inventions were distinct on the basis of producing different effects. Applicants replied on January 17, 2002, electing Group II, with traverse, arguing that no burden is placed on the examiner to examine all three Groups.

The examiner mailed a first Office action on the merits to applicants on January 28, 2002, maintaining the restriction requirement on the basis that applicants' arguments were not persuasive. The examiner also rejected claim 9 under 35 U.S.C. 112, second paragraph, as indefinite for being a method of use but failing to recite any steps. Claim 9 was rejected under 35 U.S.C. 101 for the same reason. Claims 1, 4 and 6-9 were rejected under 35 U.S.C. 103(a) as unpatentable over Eibner et al.

Applicants replied on April 29, 2002, by amending portions of the specification and canceling claims 1-3, 5 and 9 and amending claims 4 and 6-8 and adding claims 10-18. Applicants argued the rejection of the claims over the Eibner et al reference, but did not further traverse the restriction requirement.

In the next Office action mailed to applicants on June 28, 2002, the examiner maintained the rejection under 35 U.S.C. 103(a) of claims 4 and 8 and added new claims 10-11, 13, 16 and 18 as unpatentable over Eibner et al as these claims include metal soaps and comprising language. Claims 6-7, 12, 14-15 and 17 were indicated allowable. Applicants replied on September 30, 2002, proposing amendments to claims 4, 8 and 10, which eliminated the language "counter ion" as a possible meaning for X in Formula I, and presented further arguments for patentability.

The examiner mailed an Advisory Action to applicants on November 4, 2002, denying entry of the amendment on the basis of new issues being raised and the explanation "Applicant only deletes metal soaps (fatty acid salts) from the instant invention. Further search will be required to examine other compounds being used in the instant invention."

Applicants' petition also indicates that a telephone interview was held with the examiner on October 29, 2002, but no examiner record of this interview can be found. During the interview, as reported in the petition, a proposed examiner's amendment to place the claims in condition for allowance was offered. The amendment would modify portions of the specification as well as amend claims 6, 10 and 15-18 (claims 6, 15 and 17 had previously been indicated as allowable) from "comprising" to "consisting essentially of" language. The examiner indicated that he knew of specific art which could be used to reject the claims as amended in the amendment filed September 30, 2002, but felt that the proposed amendments would adequately distinguish thereover.

DISCUSSION

Applicants' petition requests that the amendment filed September 30, 2002, be entered based on the argument that the amendments proposed therein avoid the rejection of record over Eibner et al. Applicants argue that the examiner's action in not entering the amendment was improper. As noted in the petition, Eibner et al is directed to a compound similar to applicants which contains a fertilizer compound and, *inter alia,* a metal soap (salt of a fatty acid). Applicants' claims are directed to a composition containing a "plant activating agent" and a surfactant or chelating agent or a fertilizer agent and to a method of activating a plant by applying the "plant activating agent". The plant activating agent is defined by formula (II):

$$RCOO(AO)_n X^1 \text{ (II)}$$

where R is an alkyl or alkenyl group of 11-29 C atoms; AO is an oxyalkylene group (2-4C); n is from 0-30; and X^1 is hydrogen, alkyl or acyl group of 1-30 C atoms or alkenyl group of 2-30 C atoms, or a counter ion. The counter ion is defined in the specification as an alkali metal or

alkaline earth metal or alkylamine or alkanolamine salt. Thus when n is 0 and X^1 is a metal ion, a salt of a fatty acid is described. Such metal salts (metal soaps) are taught by Eibner et al as one of many "enveloping agents" which may be combined with a plant promoting agent, such as a fertilizer.

The examiner's rejection of the claims under 35 U.S.C. 103(a) focuses on Formula II being a metal salt. Applicants in the amendment after Final rejection eliminate such metal salts from the rejected method claims (but not the compound claims) in an effort to overcome the rejection based on one teaching of the Eibner et al reference.

It is axiomatic that an applicant may seek to amend pending rejected claims in such a manner as to avoid the teachings of a reference as applied by the examiner at any time during prosecution. By doing so applicants seek to advance prosecution of an application to allowance. Failure of an examiner to enter such an amendment, even after a Final Office action, on the basis that the narrowed claims would require further consideration or search appears to indicate that the examiner failed to completely examine all aspects of a claim, but examined only those that were readily taught by a reference(s). Compact prosecution requires an examiner to consider all aspects of an invention set forth in the pending claims as to their patentability, including all variations thereof. It appears that this has not occurred in this application.

Applicants report on an amendment proposed by the examiner which was not agreed to as it was based on uncited art apparently known to the examiner, but not of record in the application. The proposed amendment also appears to modify the scope of the disclosure, significantly narrowing it to only those compounds described for each component of the composition. Such an amendment is inappropriate as applicants disclosure is required to fully disclose the invention including variations and alternatives thereof and to limit it as proposed by the examiner si contrary to the provisions of 35 U.S.C. 112, first paragraph.

DECISION

Applicants' petition is **GRANTED.**

The amendment filed September 30, 2002, will be entered and fully considered by the examiner. If the amendment places the application in condition for allowance the examiner will issue an Office action to that effect. If one or more claims are not allowable in view of new prior art or a different application of previously applied prior art, the examiner will issue a new non-final Office action.

As Finality of the last Office action has not been withdrawn, Applicants remain under obligation to reply to the Final Office in an appropriate manner within the time period set therein or as may be extended under 37 CFR 1.136(a).

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230..

Any request for reconsideration of this decision must be made within TWO MONTHS of the mailing date of this decision and should be addressed to the Office of Petitions.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

OCT 0 8 2008

OFFICE OF PETITIONS

In re Patent No. 7379096	:	
Issue Date: 05/27/2008	:	
Application No. 09/842922	:	ON PETITION
Filed: 04/27/2001	:	
Attorney Docket No. 2091-0241P	:	

This is a decision on the petition filed on September 2, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

The request is dismissed because a draft Certificate of Correction has not been provided. Petitioners must provide a draft Certificate of Correction stating the correction requested. A copy of the Certificate of Correction form, PTO/SB/44, has been enclosed for petitioner's reference. A completed Certificate of Correction form should be submitted with any renewed request.

It is noted that a petition fee of $400.00 was submitted with the subject request. A fee of $130.00 for the request and $100.00 for the certificate of correction is required. The balance of $170.00 will be credited to counsel's deposit account.

No additional fee is due with a renewed request.

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

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

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

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 decision may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/44

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

Page _____ of _____

PATENT NO. :

APPLICATION NO.:

ISSUE DATE :

INVENTOR(S) :

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:

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

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.

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED
DEC 03 2008

In re Patent No. 7379096	:	
Issue Date: 05/27/2008	:	
Application No. 09/842922	:	ON PETITION
Filed: 04/27/2001	:	
Attorney Docket No. 2091-0241P	:	

This is a decision on the renewed petition filed on November 10, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,930	04/25/2001	Paul H. Weigel	5820.603	1177

30589 7590 02/27/2003

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73114

EXAMINER
SPECTOR, LORRAINE

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 02/27/2003

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent a Trademark Offic
COMMI NER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DEA/FCE-1994

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	13

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

Serial Number: 09/842,930
Art Unit: 1647

On April 25, 2001 applicant filed a petition under 37 CFR 1.84(a)(2) and (b)(2) requesting the acceptance of colored drawings or photographs. The applicant has provided the required petition; the required fee under 37 CFR 1.17(l); the requisite explanation why the colored drawings or photographs are necessary for Figures 15, 17, 18, 26, 28, 32, and 35; three sets of copies of the colored drawings or photographs; and the specification already has the required statement on page 9, last three lines as follows:

> The file of this patent contains at least one drawing executed in color. Copies of this color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

Therefore, applicant's petition is **GRANTED**.

All communications concerning this decision on petition should be directed to Gary L. Kunz, SPE of Art Unit 1647. He may be contacted at telephone number 703-308-4623 Monday through Thursday and alternate Fridays from 9:00 AM until 6:30 PM.

Gary L. Kunz
GARY KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Metz Lewis
11 Stanwix Street, 18th Floor
Pittsburgh, PA 15222

COPY MAILED

APR 1 7 2003

OFFICE OF PETITIONS

In re Application of :
Mark J. Weiser :
Application No. 09/842,963 :
Filed: April 27, 2001 :
Attorney Docket No. 1671-0004 :

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 5, 2002, which set a period for reply of THIRTY (30) days from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 were obtained. Accordingly, the application became abandoned on March 6, 2002.

This application is being forwarded to Technology Center AU 1616 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLL
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON , DC 20037-3213

COPY MAILED

OCT 1 7 2001

OFFICE OF PETITIONS

In re Application of :
Oosaka et al. :
Application No. 09/842,984 : DECISION GRANTING PETITION
Filed: 13 June, 2001 :
Attorney Docket No. Q64236 :

This is a decision on the petition filed under 37 CFR 1.182 on 18 July, 2001.

The petition is granted.

The present application was deposited on 27 April, 2001, as a division of Application No. 09/417,364, and including a preliminary amendment which canceled all of the claims. Accordingly, a Notice of Incomplete Nonprovisional Application was mailed, stating that a filing date had not been accorded because the specification did not include at least one claim. In response, on 13 June, 2001, petitioners submitted a preliminary amendment which added one claim.

Petitioners request that the declaration from the prior application be accepted in lieu of a new oath or declaration.

In accordance with 37 CFR 1.63(d), the oath or declaration from the prior application is accepted. It is noted that petitioners supplied a copy of the declaration with the application papers received on 27 April, 2001.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 13 June, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James S. Hsue
PARSONS HSUE & DE RUNTZ LLP
655 Montgomery Street
Suite 1800
San Francisco, CA 94111

In re:	Liang et al	:	DECISION ON REQUEST
Serial No.:	09/842,988	:	UNDER 37 CFR 5.25
Filing date:	April 26, 2001		
Docket No:	UTCI.003US1		

Title: LCD DRIVING SYSTEM WITH LOW POWER REQUIREMENTS

This is a decision on the petition filed on September 15, 2003 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the 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 a 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 through error and without deceptive intent.

Country	**Date**
TAIWAN	April 27, 2001

Ian J. Lobo
Patent Examiner
(703) 306-4161

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.
09/842,988	9/26/03	JEMM YU LIANG, ET AL.	UTCI.003US1

Title: **LCD DRIVING SYSTEMS WITH LOW POWER REQUIREMENTS**

Art Unit	Paper Number

Correspondence Address:
JAMES S. HSUE
PARSONS HSUE & DE RUNTZ LLP.
655 MONTGOMERY STREET
SUITE 1800
SAN. FRANCISCO, CA. 94111

PATENT & TRADEMARK OFFICE
MAILED
JAN 16 2004

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: 531,853

Grant Date: 16-Jan-04

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 application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

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 Office of Foreign Assets Control, 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 Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Jens Kossmann et al :
Application No. 09/843,007 :
Filed: April 26, 2001 :
Attorney Docket No. GFB-1 DIV1 :

ON PETITION

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

The petition is **DISMISSED** for failure to specify or show good and sufficient reasons why withdrawal of the application from issue is necessary. This is not a final agency action.

37 CFR 1.313(c) states:

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.

37 CFR 1.313(d) states:

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. **Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information** (emphasis added).

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: (1) an unequivocal statement that one or more claims are unpatentable; (2) an amendment to such claim or claims; and (3) an explanation as to how the amendment causes such claim or claims to be patentable.

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

This matter is being referred to Publication Division.

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

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

NOV 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Jens Kossmann et al	:	
Application No. 09/843,007	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. GFB-1 DIV1	:	

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

The petition is **DISMISSED as moot**.

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL Paper No. 5

NOV 05 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK D. KIRKLAND
FISH & RICHARDSON P.C.
2200 SAND HILL ROAD, SUITE 100
MENLO PARK , CA 94025

In re Application of:
Necdet Uzun
Application No.: 09/843,021
Filed: April 25, 2001
For: FAULT TOLERANT NETWORK TRAFFIC MANAGEMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Requests For Permission To Withdraw As Attorney filed September 24, 2001.

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

The request is **GRANTED**.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

cc: Sam Campbell, Esq.
Skjerven, Morrill & MacPherson LLP
9600 Great Hills Trail, Suite 300W
Austin, Texas 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ
SIX CONCOURSE PARKWAY
SUITE 3100
ATLANTA GA 30328

COPY MAILED

AUG 28 2007

OFFICE OF PETITIONS

In re Application of
Athan Gibbs Sr.
Application No. 09/843,042
Filed: April 25, 2001
Attorney Docket No. 825061-00002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 12, 2007, requesting revival of 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 (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to reply to the Office action of March 19, 2004, which set a statutory period for reply of 3 (three) months. As no extensions of time were obtained under the provisions of 37 CFR 1.136(a), and no reply was filed, this application became abandoned June 20, 2004. A Notice of Abandonment was mailed October 1, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may 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(m); (**3**) an adequate 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**) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a

statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here in view of the inordinate delay in the attempt to resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), and clearly stated clear that any protracted delay could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a detailed explanation that will excuse the delay as opposed to a general allegation. See Lawman Armor v. Simon, 2005 U.S. Dist. Lexis 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

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.

Any renewed petition may be addressed as follows:

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

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

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

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
W. EDWARD RAMAGE
211 COMMERCE STREET, SUITE 1000
NASHVILLE, TN 37201

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

COPY MAILED

AUG 2 3 2002

OFFICE OF PETITIONS

Qwest Communications International Inc.
Law Dept Intellectual Property Group
1801 California Street, Suite 3800
Denver, CO 80202

In re Application of	:	
Jafar S. Nabkel , et al.	:	
Application No. 09/843,082	:	ON PETITION
Filed: April 25, 2001	:	
Attorney Docket No. 1851(42059-01320)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 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 July 10, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 11, 2001.

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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

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

Sherry Brinkley
Petitions Examiner

cc: Kenneth J. Johnson, Esq.
Marsh Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
and POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

APR 0 8 2002

OFFICE OF PETITIONS

In re Application of:
Roger A. Dulin, Robert A. DeMattia,
Bryan S. O'Mary and Michael Burris
Application No. 09/843,085
Filed: April 27, 2001
Title of Invention: METHOD OF TRANSPARENTIZING PAPER SUBTRATE AND PAPER ASSEMBLY WITH TRANSPARENTIZED WINDOW

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed January 22, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Michael Burris, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

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

E. Shirene Willis 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

Michael Burris
512 Park Rid Circle
Marietta, GA 30068

COPY MAILED

APR 0 8 2002

OFFICE OF PETITIONS

In re Application of:
Roger A. Dulin, Robert A. DeMattia,
Bryan S. O'Mary and Michael Burris
Application No. 09/843,085
Filed: April 27, 2001
Title of Invention: METHOD OF
TRANSPARENTIZING PAPER SUBTRATE AND
PAPER ASSEMBLY WITH
TRANSPARENTIZED WINDOW

LETTER

Dear Mr. Burris:

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 Derek L. Woods at (703) 305-0014. 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

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

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

APR 1 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Phillip M. Ginsberg	:	
Application No. 09/843,093	:	DECISION GRANTING PETITION
Filed: April 26, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-17	:	

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on April 9, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3624 for examination in due course.

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

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

COPY MAILED

JUL 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Ginsberg, Phillip M.	:	
Application No. 09/843,093	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. CF-017	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3693 for action on the merits commensurate with this decision.

Liana Chase
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

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter C. Astles et al	:	
Application No. 09/843,126	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. CA2413US NP	:	

This is a decision on the petition, filed February 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHITHAM, CURTIS & CHRISTOFFERSON
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Qun Zhao et al	:	
Application No. 09/843,143	:	ON PETITION
Filed: August 13, 2001	:	
Attorney Docket No. 00-117/123	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2004, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.183 to suspend the rules.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed June 25, 2001, which set a shortened statutory period for reply of three (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 26, 2001.

With respect to the petition under 37 CFR 1.183:

As noted in the Notice Of Incomplete Reply mailed September 25, 2001, petitioner failed to submit the required substitute drawings in compliance with 37 CFR 1.84.

Petitioner contends that he never received the Notice mailed September 25, 2001. Although the USPTO attempts to notify parties as to required or defective papers in order to permit timely refiling, it has no obligation to do so. See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994). Rather, it is the applicants who are ultimately responsible for filing proper documents. Id. That is, applicant was given Notice in the June 25, 2001, notice that applicant had to submit substitute drawings in compliance with 37 CFR 1.84 or risk abandonment. Moreover, petitioner was given an additional opportunity to comply with the requirement in the communication of September 25, 2001. The failure to supply the proper, full and complete reply by August 25, 2001, was the fault of petitioner, not the USPTO. As noted in Brenner v. Ebbert, 398 F.2d. 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), cert. den. 159 USPQ 799:

> The Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

It follows that petitioner had received the reasonable notice required so as to ensure a timely and full response to the Notice of June 25, 2001. That petitioner failed to timely and adequately respond was unfortunate, but such failure did not operate to save this application from abandonment (35 U.S.C. 133), nor was the failure to properly reply a circumstance beyond the control of petitioner in the exercise of reasonable care and diligence. See Brenner, supra. As such, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the rules. See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Even assuming, arguendo, as petitioner contends, that clerical inadvertence or mistake led to petitioner's failure to submit a proper reply, such is not a grounds for requesting waiver of the regulations. **See** In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994) (clerical error causing delay leading to a loss of right does not warrant suspension of the rules).

Circumstances resulting from petitioner's failure to exercise due care, or lack of knowledge of, or failure to properly apply, the Patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162, (Comm's Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

The $130 fee for the petition under 37 CFR 1.183 is being charged to deposit account no. 50-2041 as authorized.

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

This matter is being referred to Technology Center AU 2832.

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

COPY MAILED

MAR 08 2007

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Patent No. 7,074,611	:	
Issue Date: July 11, 2006	:	
Application No. 09/843,150	:	ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 065691/0219	:	

This is a decision on the petition filed August 15, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Flehr Hohbach Test Albritton & Herbert
Four Embacadero Center, Suite 3400
San Francisco, CA 94111-4187

COPY MAILED

MAY 28 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Luo et al.
Application No. 09/843,159
Filed: April 25, 2001
Attorney Docket No. A-68292-2/RMS/DHR

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 Missing Parts of Application (Notice) mailed July 6, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four month extension of time accompanied by an Amendment and a Declaration pursuant to 1.63 were filed on January 22, 2002. In response, a Notice of Incomplete Reply was mailed on March 6, 2002. The Notice indicated that the reply received on December 27, 2001 was entered, but substitute drawings in compliance with 37 CFR 1.84 were not filed. Accordingly, the application became abandoned on December 28, 2001.

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

The application file is being forwarded to Technology Center AU 1653 for further processing.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PILLSBURY WINTHROP LLP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

#20 COPY MAILED

MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of
Bishwajit Nag et al
Application No. 09/843,167
Filed: April 27, 2001
Attorney Docket No. P 266891 CLX-0921-CIP-2

ON PETITION

This is a decision on the petition, filed March 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

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

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

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

The file will be forwarded to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

cc:

Pillsbury Winthrop LLP
P.O. Box 10500
McLean, VA 22102

---

[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

Timothy J. Klima
Harbin, King & Klima
500 9th Street, S.E.
Washington DC 20003

COPY MAILED
NOV 17 2006
OFFICE OF PETITIONS

In re Application of :
Schilling et al. :
Application No. 09/843,168 : ON PETITION
Filed: April 27, 2001 :
Attorney Docket Number: P 280255

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper e reply to the non-final Office Action of January 27, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. An improper Request for Continued Examination and three month extension of time were mailed on July 29, 2004. Accordingly, this application became abandoned on July 28, 2004. A Notice of Abandonment was mailed on March 28, 2005.

This Petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Shuttleworth & Ingersoll, P.L.C.
115 3rd Street SE, Suite 500
P.O. Box 2107
Cedar Rapids, IA 52406

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Schilling et al.	:	
Application No. 09/843,168	:	DECISION ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. P 280255	:	
RRD10403PUS-3MK		

This is a decision on the petition filed January 23, 2009 which will be treated as a petition under the unintentional provisions of 37 CFR 1.137(b) 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 January 22, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 22, 2008. Accordingly, the date of abandonment of this application is January 23, 2009. A Notice of Abandonment was mailed on February 19, 2009. The issue and publication fees were received and paid on January 23, 2009 which was on the date of abandonment in this application.

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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The correspondence address of record has been changed as requested by the Change of Correspondence Address filed on October 14, 2009.

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

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 7, 2008

TO SPE OF : ART UNIT ~~2800~~ 2183

SUBJECT : Request for Certificate of Correction for Appl. No 09/843178patent no7320065

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: _____

/Eddie P Chan/ SPE AU2183

SPE

2183

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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

COPY MAILED

SEP 23 2003

OFFICE OF PETITIONS

In re Application of :
Scott N. Barton, et al. :
Application No. 09/843,203 :
Filed: April 26, 2001 :
Attorney Docket No. END-755 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed June 28, 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 29, 2001.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 09-04

ST ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD CT 05905

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Davis et al.	:	
Application No. 09/843,211	:	ON PETITION
Filed: 25 April, 2001	:	
Att'y Docket No. 0701.027	:	

This is a decision on the petition under 1.137(b),[1] filed on 26 August, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 14 February, 2004, for failure to timely reply to the Office communication mailed on 13 January, 2004, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37

---

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

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

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

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

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

CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 12 August, 2004

The application file is being forwarded to Technology Center 3600 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

In re Application of	:	
Lyle Theisen	:	
Application No. 09/843,219	:	NOTICE
Filed: April 26, 2001	:	
Attorney Docket No. P04822US0	:	

This is a notice regarding your request filed September 21, 2009, 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 undersigned at (571) 272-4584.

JoAnne Burke
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

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

COPY MAILED

OCT 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Lyle Theisen	:	
Application No. 09/843,219	:	NOTICE
Filed: April 26, 2001	:	
Attorney Docket No. P04822US0	:	

This is in response to the paper filed September 21, 2009 under 37 CFR 1.27(c) seeking status as a small entity.

The statement claiming small entity status of September 21, 2009 has been made of record and small entity status has been accorded.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
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

Crawford Maunu, PLLC
1150 Northland Drive, Suite 100
St. Paul, MN 55120

COPY MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,139,834	:	
Issue Date: November 21, 2006	:	
Application No. 09/843,249	:	NOTICE
Filed: April 26, 2001	:	
Attorney Docket No. EYEF.002PA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 20, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. 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

Mark G. Kachigian
HEAD, JOHNSON & KACHIGIAN
228 West 17th Place
Tulsa, OK 74119

MAILED

DEC 22 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of :
William Whiteside Wilson III, et al. :
Application No.09/843,263 :
Filed: April 26, 2001
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE TO FACILITATE REMOTE STATION ADVERTISING

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 6, 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(h); (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 August 6, 2003 completes 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/cps: 12/15/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091208

DATE : June 27, 2009

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 6,975,743

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:

/Bhavesh M Mehta/
Supervisory Patent Examiner, Art Unit 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

COPY MAILED

MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Matthew James Lewis-Aburn, et. al.	:	
Application No. 09/843,288	:	ON PETITION
Filed: April 25, 2001	:	
Attorney Docket No. ROCKCO P52AUS	:	

This is a decision on the petition under 37 CFR 1.55(a)(2), filed July 1, 2004, for entry of priority papers submitted after the date the issue fee was paid. The delay in responding is regretted.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 USC 119.

The priority papers are accepted as timely filed. The papers have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 USC 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction under 35 USC 255 and 37 CFR 1.322 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is before the Office of Petitions, action on the petition under 37 CFR 1.55(a) has been taken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323.

The application file is being referred to the Office of Publications.

Any questions concerning this decision should be directed to Andrea Smith at (571) 272-3226. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8305.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

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

In re Patent No.: 6,913,762	:
Filing Date: July 5, 2005	: LETTER REGARDING PTA
Application No. 09/843,295	:
Filed: July 25, 2001	:
Atty. Dkt. No.: 07039-175001	:

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 26, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 283 days.

The above-identified identified application matured in to U.S. Pat. No. 6,913,762 on July 5, 2005. The patent issued with a PTA of 286 days. Prior to issuance of the patent, applicants indicated that the calculation of applicants delay (109 days at the time of allowance) appeared to be shorter than appropriate.

A review of the application history reveals that an adjustment of 6 days was attributed to the Office in accordance with 37 CFR 1.702(a)(1). A further adjustment of 430 days in accordance with 37 CFR 1.702(b) was accorded at the time of issuance of the patent.

The adjustment totaling 436 days was reduced 98 days in accordance with 37 CFR 1.704(b) in connection with the reply submitted December 1, 2003 in response to the non-final Office action mailed May 6, 2003.

The adjustment of 436 days was further reduced 6 days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal submitted February 11, 2005 in response to the final Office action mailed November 5, 2004.

The adjustment of 436 days was further reduced 41 days in accordance with 37 CFR 1.704(c)(10) in connection with the drawings submitted May 26, 2005.

Moreover, and as indicated by applicants, the adjustment of 436 day is further reduced three days in accordance with 37 CFR 1.704(b) in connection with the reply submitted October 1, 2001 in response to the Notice to File Missing Parts mailed June 28, 2001.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 283 days.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction to indicating that the above-identified patent has received an adjustment of 283 days.

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

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

Enclosure: Draft Certificate of Correction

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

BORGWARNER INC
PATENT DEPARTMENT
3001 WEST BIG BEAVER ROAD
SUITE 200
PO BOX 5060
TROY MI 48007-5060

COPY MAILED

APR 29 2002

OFFICE OF PETITIONS

In re Application of
Markley, et al.
Application No. 09/843,325
Filed: April 26, 2001
Attorney Docket No. 99107

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed January 18, 2002 (Certificate of Mailing dated December 7, 2001).

Application papers in the above-identified application were filed via Express Mail (Express Mail Number EL508177095US) on April 26, 2001. On August 17, 2001, the Office mailed a filing receipt in the above-identified application, informing applicant that the filing date of the application was April 25, 2001.

A review of the Office Express Mail records reveals that the above-identified application was deposited with the USPS on April 26, 2001.

In view thereof, the petition is **GRANTED**.

A printout of the USPTO Express Mail Information Database for Express Mail Number EL508177095US accompanies this decision.

Given the basis for granting the petition, no petition fee was charged.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to April 26, 2001.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

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

cc: Fitch, Even, Tabin & Flannery
120 South Lasalle Street
Suite 1600
Chicago, Illinois 60603-3406

Enc: USPTO Express Mail Information Database record (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 7 2003

Paper No. 11

In re Application of
Martin Essing
Application No. 09/843,348
Filed: April 26, 2001
Attorney Docket No. 5029=39RCE

: DECISION ON PETITION

This is a decision on the petition filed on January 13, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 31, 2002. No fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not in fact abandoned because a timely reply to the Office letter in question, a final rejection, was filed. In support of this allegation petitioner has attached a copy of the reply which is a Request for Continued Examination (RCE) under 37 CFR 1.114. Petitioner has also included a copy of the filing receipt for the reply which shows that the RCE, together with authorization to charge the RCE, as well as a check for that fee, were in fact received in the Office on May 6, 2002. The RCE paper has a 37 CFR 1.8(a) certificate of mailing dated April 26, 2002 affixed thereto. As the certificate date is within the three month period for reply that was set in the final rejection, it is clear that the reply was timely filed pursuant to 37 CFR 1.8(b). In addition, Office financial records confirm receipt of the $740.00 check for the RCE fee.

In view of the showing attached to the petition, it is clear that this application is not in fact abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on the RCE filed on May 6, 2002, certificate of mailing date April 26, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Thomas C. Pontani, Esq.
Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 2 8 2006
OFFICE OF PETITIONS

Fogg, Slifer & Polglaze, P.A.
P.O. Box 581009
Minneapolis MN 55458-1009

In re Application of

Klipper, et al. :

Application No. 09/843,363

: DECISION ON PETITION

Filed: April 25, 2001

:

Attorney Docket No. 100.164US01

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 24, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on November 17, 2005.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The amendment filed March 30, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2663 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Tarek N. Fahmi
Sonnenschein Nath & Rosenthal LLP
PO Box 061080
Wacker Drive
Sears Tower
Chicago, IL 60606-1080

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)
6865640	2005-03-08	09843387	2001-04-26	TUC920000085US1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Spolyar/	Date (YYYY-MM-DD)	2010-03-09
Name	Mark J. Spolyar	Registration Number	42164

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. 6865640
Issue Date: March 8,2005
Application No. 09843387
Filed: April 26,2001
Attorney Docket No. TUC920000085US1

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

Paper No. 4

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

DEC 1 7 2001

OFFICE OF PETITIONS

In re Application of :
Thomas Schwegle and Klaus Sanladerer :
Application No. 09/843,390 :
Filed: April 25, 2001 :
Attorney Docket No. 67107 :
Title: AQUEOUS COMPOSITION USEFUL FOR STABILIZING AND TEXTURIZING DAIRY PRODUCTS AND PROCESS FOR PREPARING THE SAME :

DECISION ON PETITION

This is in response to the "Request for Corrected Filing Receipt", filed September 4, 2001, which is properly being treated as a petition under 37 CFR §1.10, requesting that the above-identified application be accorded a filing date of April 26, 2001.

The petition is **DISMISSED**.

The application was filed on April 25, 2001. On June 19, 2001, a "Notice to File Missing Parts of Provisional Application" (Notice) was mailed, which indicated that an executed oath or declaration in compliance with 37 CFR §1.63, and a late filing fee or oath or declaration surcharge were required.

Petitioner has submitted a request that the filling date be changed to April 26, 2001.

Petitioner's request is dismissed, as petitioner has failed to set forth any persuasive arguments. A review of the official file reveals that the abstract, claims, specification, and the transmittal sheet were each date

stamped "April 25, 2001". Furthermore, the petitioner has failed to submit either a postcard receipt, showing that the items were received on April 26, 2001, or an Express Mail mailing label showing a "date in" of April 26, 2001.

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

The application is being submitted to the Office of Initial Patent Examination for further processing with a filing date of April 25, 2001.

Receipt of the executed declaration, assignment documents, recordation fee, and the one-month extension of time are acknowledged.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 9

Ladas & Parry
26 West 61st Street
New York, NY 25858

JUN 30 2003

In re Application of
Yu-Lung Lo et al.
Application No.: 09/843,398
Filing Date: April 26, 2001
Attorney's Docket No.: U 013422-3

DECISION ON REQUEST
TO REMAIL OFFICE ACTION

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on June 11, 2003 via facsimile transmission. It is being treated as a request to remail an Office action since the application has never been held to be abandoned.

The request is **GRANTED**.

An Office action was mailed on November 6, 2002. There has been no response to that Office action.

Requester asserts that the Office action of November 6, 2002 was never received. In accordance with MPEP section 711.03 (c)(II), petitioner submitted as evidence the necessary statement stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates the Office action was not received. Also, a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed was attached to and referenced in practitioner's statement.

However, this evidence is not necessary since a review of the application file indicates that the Office action of November 6, 2002 was inadvertently mailed to a law firm in California who promptly mailed the Office action back to the Patent and Trademark Office (PTO) on November 27, 2002. The returned Office action was received at the PTO on December 3, 2002. The Office action was never remailed.

The application is being forwarded to the Technology Center 2800 support staff for remailing of the Office action of November 6, 2002 with a new three month shortened statutory period for response.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTN: CHRISTOPHER TUCKER, PATENT AGENT
XYBERNAUT CORPORATION
SUITE 550, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033

COPY MAILED

SEP 01 2006

OFFICE OF PETITIONS

In re Application of:	:	
Jenkins et al.	:	
Application No. 09/843,423	:	DECISION ON
Filed: April 25, 2001	:	PETITION
Title of Invention:	:	
WIRELESS PEN INPUT DEVICE	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 9, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed May 4, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned August 5, 2005. A Notice of Abandonment was mailed December 21, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 2675 for processing of the Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Edwin H. Taylor
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

COPY MAILED
MAR 0 4 2004
OFFICE OF PETITIONS

In re Application of
Hershenson, Hassibi & Hentz
Application No. 09/843,486
Filed: April 25, 2001
Attorney Docket No. 004363.P004
For: OPTIMAL SIMULTANEOUS DESIGN AND FLOORPLANNING OF INTEGRATED CIRCUIT

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed January 12, 2004 to change the order of inventorship.

The petition is GRANTED.

The order of inventors will be:

MAR HERSHENSON
ARASH HASSIBI
ANDRE HENTZ

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be forwarded to Publications Division.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 24 2004

Paper No. 16

In re Application of
Mark Ashby *et al*
Application No. 09/843,496
Filed: April 25, 2001
Attorney Docket No. 034298-000092

DECISION ON PETITION

This is a decision on the petition filed on February 6, 2004 by which petitioners request withdrawal of the examiner's requirement to restrict this application a single one of a plurality of patentably distinct inventions and to further elect a single species of the disclosed invention for prosecution in this application. The original requirement was promulgated on May 7, 2003, in paper No. 8 and made final on September 2, 2003, in paper No. 11. The petition is considered pursuant to 37 CFR 1.141 and 1.181, and no fee is required.

The petition is dismissed.

Initially, it is noted that in paper No. 8, the requirement as originally promulgated identified a total of four patentably distinct inventions. Two of these inventions were alleged by the examiner to be related as subcombinations useable together (MPEP § 806.05(d)), a third invention was said to be related to each of the two subcombination inventions as combination-subcombination (MPEP 806.05(c)) and the fourth invention was held to be a method that was distinct from each of the three inventions are method as process of use and the product being used (MPEP § 806.05(h)). In addition, the examiner determined that two patentably distinct species were disclosed and claimed in this application, namely the species Figure 4 which the examiner designated as "species A", and the species of Figure 8, designated by the examiner as "Species B."

Petitioners filed paper No. 9 on June 9, 2003, and in that reply, petitioners traversed the requirement to elect one of the four related but patentably distinct inventions. Petitioners' basis for traversing this requirement appears at page 5 of paper No. 9, and seems to be that the examiner did not demonstrate that the four patentably distinct inventions were also "independent inventions." Petitioners appear to have argued that the examiner failed to demonstrate that these inventions were both "independent and distinct", as required by 35 USC § 121. With respect to the election of species requirement, petitioners argued that the species were also related as distinct inventions, and that under the practice in MPEP § 806.04(b), the examiner was required to demonstrate that the species were patentably distinct under the "distinct inventions" test. It was argued that the species could not be independent inventions because they were interrelated.

Petitioners' traverse was not well taken. First, it has long been the practice to read the statutory language "independent and distinct" as meaning "independent or distinct". For a detailed explanation of why, see MPEP § 802.01.

Second, MPEP § 806.04(b) refers to the situation in which two species of a given device are also disclosed as useable together in a combination. The example given is two different species of clamp, each used at the same time in an overall combination. The species of Figure 4 and the species of Figure 8 are disclosed as being two variations of cutter, and are not disclosed as being useful together in the same combination. Hence, it was unnecessary for the examiner to apply MPEP 806.04(b) and rely upon distinct invention practice as well as species practicein order to support the election of species requirement that was promulgated. The examiner need only have determined that there was a least one claim limited to the species of Figure 4, and at least one claim limited to the species of Figure 8, and that the species were capable of supporting separate patents in order to justify requiring that petitioners elect a single species **for prosecution** in this application. See MPEP § 808.01.

With respect to the instant petition, there are two additional facts. First, petitioners have canceled claims 1-10, 13 and claims 17-26, leaving only claims 11, 12, 14-17 and newly added claim 27 directed to the combination of a cutting device generally having a base having an opening with cutting edges, an articulated flap having cutting edges corresponding to the cutting edges of the opening, and the base being mounted on a card which in turn supports a medical system for delivering foam material. Petitioners' characterization of claims 18-26 as being withdrawn is erroneous, see paper No. 9, page 3.

Second, petitioner is now arguing the Constitutionality of the "restriction requirement", that the restriction requirement must be based on claims in accordance with proper MPEP practice, and on a host of other reasons that did not form the basis for the original traverse. Nevertheless, these arguments will be answered, albeit, briefly.

Petitioners' Constitutional argument vis-a-vis the examiner's requirement to elect species is simply inaccurate with respect to what an election of species requirement is, and what the law is. It is not a "restriction requirement"; it is an election of species requirement. Petitioners' hypothetical example of an unconstitutional taking that would occur if one of petitioners' claims reads on both of the species precluding the filing of a divisional application is adequately addressed by 35 USC § 121, which precludes a rejection in a divisional application based upon double patenting of claims asserted in a divisional application that were subject to an election or restriction requirement in a parent application. In addition, 37 CFR 1.146 provides that an applicant will be permitted to claim a reasonable number of species in an application if a generic claim is found to be allowable. Petitioners have not been subjected to any sort of "taking" by reason of the examiner's requirements.

As to the arguments predicated on the proposition that restriction must be based upon claims, a species requirement is based upon embodiments. "*Claims are never species.*", MPEP § 806.04(e). (Emphasis in the original.) With respect to the argument in the penultimate paragraph of page 5 of the petition, it is again pointed out that with respect to the determination that the two species identified by the examiner are patentable over each other, the examiner has acted properly pursuant to MPEP § 808.01.

In summary, the petition presents no basis upon which to disturb the record as it currently exists, or upon which to hold that the examiner abused his discretion or acted in an arbitrary or capricious manner in first requiring restriction, then in requiring an election of species in addition to the restriction requirement, and then in making his requirements final. Therefore, the requested relief cannot presently be granted. Petitioners are entitled to file a request for reconsideration of this decision, which must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 11-01

Paper No. 8

JEFFREY M. GLABICKI, ESQUIRE
VOLPE AND KOENIG, P.C., DEPT. ICC
SUITE 400, ONE PENN CENTER
1617 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PA 19103

COPY MAILED

NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Schilling	:	
Application No. 09/843,520	:	DECISION REFUSING STATUS
Filed: 27 April, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 1-2-32.3US	:	

This is in response to the petition under 37 CFR 1.47(b) filed on 21 September, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 27 April, 2001, without an executed oath or declaration.

Accordingly, on 20 June, 2001, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 21 September, 2001 (certificate of mailing date 20 September, 2001), the present petition and authorization to charge the petition fee to counsel's deposit account, No. 09-0435 were filed, accompanied by, *inter alia*, a request and payment of the fee for a one (1) month extension of the time to reply to the "Notice" and a declaration naming Donald L. Schilling as the sole inventor and signed by Donald M. Boles, Vice President - Intellectual Property for InterDigital Technology Corporation on behalf of the non-signing inventor, an employment agreement between inventor Schilling and International Mobile Machines Corporation (IMM) (by change of name InterDigital Technology Corporation (IDTC)), and a declaration by petitioner's registered patent attorney, Jeffrey M. Glabicki.

Petitioners state that a copy of the application papers were sent to Schilling. Petitioners' counsel states that the inventor subsequently orally refused to sign the declaration during a telephone call with counsel. In the employment agreement between Schilling and IMM, it is stated, to wit, that Schilling agrees to assign to IMM all inventions discovered, created or developed during the term of his employment and within the scope of his employment. Further, the declaration of Jeffrey M. Glabicki, petitioner's registered patent counsel, states that IMM changed its name to IDTC, and that Schilling is contractually obligated by the employment agreement to assign the invention which is the subject of the present application for patent to IDTC.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (2), and (6). In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing

inventor for review.[1] In this respect, it is noted that although the petition states that a copy of the letters transmitting the application to the non-signing inventor at the inventor's last known address is enclosed with the petition, no cover letters have been located among the papers filed with the present petition on 21 September, 2001. Furthermore, it is not apparent from the declaration of attorney Glabicki whether Glabicki was the person who sent (*i.e.* had first-hand knowledge) the application to Schilling.

Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person with first-hand knowledge of the details.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration under 37 CFR 1.63 and 1.64 does not set forth the citizenship, residence, and mailing address of Mr. Boles (signing on behalf of IDTC, the putative party having proprietary interest). Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required.[2]

In regards to item (5), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

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

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

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

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

---

[1] MPEP 409.03(d).

[2] See MPEP 409.03(b).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 12

VOLPE AND KOENIG, PC
DEPT ICC
SUITE 400, ONE PENN CENTER
1617 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA PA 19103

COPY MAILED

MAY 1 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Schilling	:	
Application No. 09/843,520	:	DECISION REFUSING STATUS
Filed: 27 April, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 1-2-32.3US	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 13 February, 2002 (certificate of mailing date 25 January, 2002).

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 27 April, 2001, without an executed oath or declaration. Accordingly, on 20 June, 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. The petition under 37 CFR 1.47(b) filed on 21 September, 2001, was dismissed on 26 November, 2001.

Petitioner's counsel, Jeffrey M. Glabicki, states that he sent a copy of the application papers to the non-signing inventor. Attorney Glabicki further states that the inventor acknowledged receipt of the application during a telephone conversation, but

refused to sign and return the declaration. Petitioner also states that irreparable harm will result if the petition is not granted.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), the declaration filed with the present renewed petition is not in compliance with 37 CFR 1.63 and 1.64.[1] While the declaration does state the citizenship, residence, and mailing address of the individual signing on behalf of the Rule 47(b) applicant, that information has been placed in the signature block for the non-signing inventor himself, and the inventor's information is not included. Additionally, the title (president, vice president, secretary, or treasurer) of the person signing on behalf of the corporation has not been included. As such, the declaration suggests that the corporate officer signing for the Rule 47(b) applicant is actually the inventor.

Petitioner should submit a declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 which includes a signature block for the non-signing inventor **and** a separate signature block for the individual signing on behalf of the corporation. The signature block for the non-signing inventor must include the mailing address, residence, and citizenship of the inventor, while the signature block for the person signing on behalf of the corporation must include the mailing address, residence, and citizenship, as well as the title (president, vice president, secretary, or treasurer) of that person. If the declaration is

[1] See MPEP 409.03(b).

not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2] The signature block for the person signing on behalf of the corporation must indicate that the person is signing on behalf of and as agent for the non-signing inventor. The declaration will be acceptable if the signature block for the non-signing inventor is left blank and the signature block for the person signing on behalf of the corporation has been signed by that person.

It is noted that counsel's deposit account has been charged for the petition fee and late oath or declaration or filing fee surcharge. As these fees were previously paid, the duplicate payments charged with the present petition are unnecessary and will be credited to counsel's deposit account, No. 09-0435.

Receipt of the change of correspondence address filed 8 March, 2002, is acknowledged. All correspondence will be mailed to the new address of record.

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

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

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

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

---

[2] MPEP 409.03(b).

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

Donald L. Schilling
Hoffstot Lane
Sands Point, NY 11050

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Donald L. Schilling
Application No. 09/843,520
Filed: 27 April, 2001
For:SPREAD SPECTRUM ADAPTIVE POWER CONTROL COMMUNICATIONS SYSTEM AND METHOD

Dear Mr. Schilling:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at 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).

D Wood

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

VOLPE AND KOENIG, PC
DEPT ICC
SUITE 400, ONE PENN CENTER
1617 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA PA 19103

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

Paper No. 15

VOLPE AND KOENIG, PC
DEPT ICC
SUITE 400, ONE PENN CENTER
1617 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA PA 19103

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of	:
Donald L. Schilling	: DECISION ACCORDING STATUS
Application No. 09/843,520	: UNDER 37 CFR 1.47(b)
Filed: 27 April, 2001	:
Attorney Docket No. 1-2-32.3US	:

This is in response to the thrice renewed petition under 37 CFR 1.47(b) filed on 12 July, 2002.

The petition is **GRANTED**.

Petitioner has shown that a copy of the application was mailed to the non-signing inventor. The inventor, however, orally refused to sign the declaration during a telephone conversation with petitioner's counsel, registered patent attorney Jeffrey M. Glabicki. Additionally, petitioners have shown proprietary interest by providing a copy of the employment agreement between the non-signing inventor and Rule 47(b) applicant. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

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

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

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

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

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)
6338520	2002-01-15	09843530	2001-04-26	CSP-13702/38

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	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-07-24
Name	Avery N. Goldstein	Registration Number	39204

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. 6338520
Issue Date: January 15,2002
Application No. 09843530
Filed: April 26,2001
Attorney Docket No. 2872L-000437COC

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

This is a decision on the electronic petition, filed July 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6816058	2004-11-09	09843572	2001-04-26	23758

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	/Leonard Tachner/	Date (YYYY-MM-DD)	2009-04-02
Name	Leonard Tachner	Registration Number	26344

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. 6816058
Issue Date: November 9,2004
Application No. 09843572
Filed: April 26,2001
Attorney Docket No. 23758.00100

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

This is a decision on the electronic petition, filed April 2,2009 ,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 April 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

Applicant	: John Anthony Bruckner	: DECISION ON REQUEST FOR
Patent Number	: 7584491	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/843,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1704** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Gregory D. Caldwell
BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLC
5285 SW Meadows Road, Suite 101
Lake Oswego, OR 97035

MAR 9 2004

In re Application of:	:	
Thomas W. Mossberg	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 09/843,597	:	
Filed: April 26, 2001	:	
Attorney Docket No.: **5455P001X**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 28, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to David S. Alavi was filed on March 21, 2003. 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: David S. Alavi
3762 West 11th Avenue, #408
Eugene, OR 97402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TYCO ELECTRONICS CORPORATION
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808-2952

COPY MAILED
JAN 03 2007
OFFICE OF PETITIONS

In re Application of
Robert A. Kirker et al.
Application No. 09/843,601
Filed: April 26, 2001
Attorney Docket No.: 17619(MHM12996US01)

ON PETITION

This is a decision on the petition filed December 27, 2004 and resubmitted May 12, 2006, to revive the above-identified application under 37 CFR 1.137(b)[1] but also seeks to have the abandonment withdrawn and the petition fee refunded. In view thereof, this decision also treats the petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner argues that the Notice of Allowability mailed May 24, 2004 did not note on the first page that Corrected Drawings were required and thus no drawings were filed in response to the Notice. Petitioners acknowledge however that the requirement for Corrected Drawings was noted on the last page of the Notice mailed May 24, 2004.

At the outset, petitioners are advised that the Notice of Allowability mailed May 24, 2004 was a three page document and not a one page document. Petitioners are further advised that if an Office communication is mailed and that in the absence of that communication

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

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

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

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

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

not being withdrawn by the USPTO, then by law a response is required. The failure to file a response causes the application to become abandoned, even if that communication was sent in error. There is no evidence that the applicants filed a written response or query as to the conflict over whether Corrected Drawings were required, as is required by 37 CFR 1.2. Therefore, applicants are not afforded an opportunity then to withhold a response based on a perceived error on the part of the USPTO. If applicants perceived an error with the request for "Corrected Drawings" they had an affirmative obligation to file a response that no such drawings should have been required.

This application properly became abandoned August 25, 2004 for failure to file a timely reply to the Notice of Allowability mailed May 24, 2004 and therefore the Notice of Abandonment mailed December 6, 2004 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charged to deposit account no. 23-1950.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MICHAEL P DILWORTH
CROMPTON CORPORATION
199 BENSON ROAD
MIDDLEBURY, CT 06749

COPY MAILED

APR 2 6 2002

OFFICE OF PETITIONS

In re Application of
Henry L. Mei et al
Application No. 09/843,603
Filed: April 26, 2001
Attorney Docket No. 0020-OS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 20, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 21, 2001.

The Power of Attorney and Change of Correspondence Address filed February 26, 2002 is noted and made of record.

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

The application file is being forwarded to Initial Patent Examination Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036

MAILED
NOV 19 2002
Technology Center 2100

In re Application of:
Thomas T. Nguyen, et al.
Application No. 09/843,605
Filed: April 26, 2001
For: METHOD AND APPARATUS FOR INTEGRATING TUNNELING PROTOCOLS WITH STANDARD ROUTING PROTOCOLS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 4, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAILED

JAN 0 3 2003

Technology Center 2100

Paper No. 11

Anthony C. Coles
PROSKAUER ROSE, LLP
1585 Broadway
New York, NY 10036

In re Application of:	)	
Thomas N. Nguyen	)	
Application No. 09/843,605	)	**DECISION ON REQUEST FOR**
Filed: April 26, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR INTEGRATING TUNNELING PROTOCOLS WITH STANDARD ROUTING PROTOCOLS	)	

This is a decision on the Request To Withdraw from Representation filed December 02, 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 December 02, 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: Mr. Dennis Joyce
FORTRESS TECHNOLOGIES, INC.
4025 Tampa Road, Suite 1111
Oldsmar, FL 34677

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOSE MCKINNEY & EVANS LLP
2700 FIRST INDIANA PLAZA
135 NORTH PENNYSYLVANIA STREET
INDIANAPOLIS, IN 46204

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Arnold, et al.	:	
Application No. 09/843,608	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. 15600-0004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed June 25, 2003. Accordingly, this application became abandoned on September 26, 2003.

A Request For Continued Examination (RCE) with an amendment was filed March 4, 2004.

The file is being forwarded to Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OPTV/FENWICK
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

OCT 0 1 2004

Technology Center 2100

In re Application of:
Bryan C. GEBHARDT, et al.
Application No. 09/843,614
Filed: April 25, 2001
For: SYNCHRONOUS UPDATING OF DYNAMIC INTERACTIVE APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 1, 2004.

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

The request is **GRANTED**.

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: OPTV/BLAKELY
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye P.C.
8th Floor
1100 N. Glebe Rd.
Arlington VA 22201

COPY MAILED
DEC 18 2008

In re Application of	:	
Richard L. Veech	:	
Application No. 09/843,694	:	DECISION ON PETITIONS
Filed: April 30, 2001	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 604-591	:	37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.78(a)(6), filed November 26, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional Application No. 60/040,858 set forth in the Supplemental Application Data Sheet (ADS) filed December 15, 2008.

Petition Under 37 CFR 1.137(b)

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 26, 2001, which set a shortened statutory period for reply of three (3) months. Petitioner obtained an extension of time for response within the third month under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 27, 2001. A Notice of Abandonment was mailed on July 3, 2002.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has submitted (1) the required reply under 37 CFR 1.137(c) in the form of a continuing application (i.e. Application No. 10/153,873); (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being revived solely for purposes of accepting an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of prior-filed provisional Application No. 60/040,858.

Petition Under 37 CFR 1.78(a)(6)

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

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

The Office notes that intermediate application, PCT/US98/05072, was filed on March 17, 1998, within twelve months of the filing date of prior-filed provisional Application No. 60/040,858, filed March 17, 1997, for which priority is claimed. A reference to the prior-filed provisional application has been included in the Supplemental ADS filed December 15, 2008. Accordingly, the petition under 37 CFR 1.78(a)(6) 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 this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The current surcharge set forth in 37 CFR 1.17(t) for acceptance of an unintentionally delayed claim for priority is $1,410.00; however, petitioner paid a fee of $130.00. The Office will charge the Deposit Account for the balance due of $1,280.00, as authorized.

The application is being forwarded to Technology Center AU 1614 for consideration by the examiner of the claim under 35 U.S.C. 119(e) for the benefit of priority to the prior-filed provisional application.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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
DIW Aug-08

MORGAN, LEWIS & BOCKINS LLP
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20004

COPY MAILED
AUG 11 2008

In re Application of Woo Hyuk Choi Application Number: 09/843781 Filing Date: 04/30/2001 Attorney Docket Number: 041501-5423	: : : : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in reference to the "PETITION TO WITHDRAW ERRONEOUS NOTICE OF ABANDONMENT," filed on June 13, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned due to termination of proceedings after the mailing of the Board of Patent Appeals and Interferences (BPAI) Decision affirming the examiner mailed on March 25, 2008. A Notice of Abandonment was mailed on June 3, 2008, stating the application was abandoned because the period for seeking court review of the decision had expired and there are no allowed claims.[1]

Petitioner asserts that the Notice of Abandonment is in error, as Claims 1, 3-8, 17-19, 21-24, and 26 are allowed.

A review of the BPAI Decision reveals that it states Claims 1, 3-8, 17-19, 21-24, and 26 have been allowed in the Examiner's Answer.

37 CFR 1.197 states:

> (a) Return of jurisdiction from the Board of Patent Appeals and Interferences. Jurisdiction over an application or patent under *ex parte* reexamination proceeding passes to the examiner after a decision by the Board of Patent Appeals and Interferences upon transmittal of the file to the examiner, subject to

[1] Office communication from the examiner was mailed June 11, 2008, stating that the holding of abandonment should be withdrawn, per the BPAI decision of March 25, 2008.

> appellant 's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the application or patent under *ex parte* reexamination proceeding may require, to carry into effect the decision of the Board of Patent Appeals and Interferences.
>
> (b) Termination of proceedings.
> (1) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:
>
> (i) Where claims stand allowed in an application; or
> (ii) Where the nature of the decision requires further action by the examiner.

MPEP 1214.06 states, in pertinent part, that when the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration. The situations which can arise will involve one or more of the following circumstances: II. CLAIMS STAND ALLOWED The appellant is not required to file a reply. The examiner issues the application or *ex parte* reexamination certificate on the claims which stand allowed.

Accordingly, since claims stand allowed, proceedings were not terminated, and there was no abandonment in fact.

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

The application is referred to Technology Center Art Unit 2871 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
www.uspto.gov

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

COPY MAILED
SEP 2 6 2008
OFFICE OF PETITIONS

In re Application of	:
Garcia Luna Aceves et al.	:
Application No. 09/843789	: DECISION ON PETITION
Filing or 371(c) Date: 04/26/2001	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 5543P002	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 8, 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 applications set forth in the concurrently filed Amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications 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 Derek 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.

This application is being referred to Technology Center Art Unit 2153 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

Anthony Knight
Supervisor
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
09/843,789	04/26/2001	2153	1192	5543P002	34	1

CONFIRMATION NO. 3362

CORRECTED FILING RECEIPT

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

OC000000032139794

Date Mailed: 09/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

JJ Garcia-Luna-Aceves, San Mateo, CA;
Bradley R. Smith, Santa Cruz, CA;

Power of Attorney:
Tarek Fahmi--41402

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/200,404 04/28/2000
and claims benefit of 60/200,401 04/28/2000
and claims benefit of 60/200,511 04/28/2000
and claims benefit of 60/200,402 04/28/2000
and claims benefit of 60/200,403 04/28/2000
and is a CIP of 09/810,148 03/15/2001 PAT 7,162,539
which claims benefit of 60/190,331 03/16/2000
and claims benefit of 60/200,401 04/28/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/843,789**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD FOR USING A MAPPING BETWEEN CLIENT ADDRESSES AND ADDRESSES OF CACHES TO SUPPORT CONTENT DELIVERY

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 04 2008

OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :

MCGUIRE, Jacob :
Application No. 09/843,816 : DECISION ON PETITION
Filed: April 30, 2001 : TO WITHDRAW
Attorney Docket No. **PA3941US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 10, 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 Daniel Kloke on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACOB MCGUIRE**
5091 DOYL ROAD
SAN JOSE, CA 95129

cc: **JONATHAN M. HARRIS**
CONLEY ROSE LLP
JPMORGAN CHASE TOWER
600 TRAVIS ST. SUITE 1700
HOUSTON, TX 77002-2912

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 18 2005

Ropes & Gray, LLP
One International Place
Boston, MA 02110-2624

In re application of
Mark J. Stender
Application No. 09/843,841
Filed: April 30, 2001
For: SYSTEM AND METHOD FOR PROVIDING WEB-BASED USER INTERFACE TO LEGACY, PERSONAL-LINES INSURANCE APPLICATIONS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on August 25, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the Power of Attorney withdrawing the attorneys has been revoked per notice to that effect mailed September 19, 2005.

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

RAR/dcg: 10/13/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 7, 2009

TO SPE OF : ART UNIT 2192
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/843882/7167965

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

TUAN DAM
SUPERVISORY PATENT EXAMINER

2192

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

RECEIVED

APR 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Gonzalez et al. :
Application No. 09/843,885 :
Filed: April 30, 2001 :
For: SYSTEM AND METHOD FOR :
DISPLAYING AND PRINTING IMAGES :
ACCORDING TO SELECTED SIZES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 26, 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 not met item (2) above. The undersigned, John W. Ryan, is not of record. The Patent Office also does not recognize withdrawal of a firm.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

Kenneth A. Wieder

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

COPY MAILED

NOV 25 2005

OFFICE OF PETITIONS

In re Application of
Steven Tietsworth et al.
Application No. 09/843,900
Filed: April 27, 2001
Attorney Docket No. 263/275

ON PETITION

This is a decision on the petition filed February 12, 2004 to withdraw the holding of abandonment under 37 CFR 1.181.

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

This application became abandoned February 5, 2004 for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 4, 2003. The instant petition and the instant decision precede the mailing of the Notice of Abandonment.

Petitioner claims that the Notice of Allowance mailed November 4, 2003 was never received in that the Notice was mailed to the wrong address. Petitioners provide proof that a power of attorney, with a request for an address change, was filed by the Assignee on July 25, 2003, prior to the mailing of the Notice of Allowance on November 4, 2003 and argue therefore that the USPTO records were not updated to reflect the address change.

A review of the file confirms that a power of attorney and address change was indeed filed on July 25, 2003 and that the USPTO records were not updated. The Notice of Allowance and the Notice of Abandonment 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 the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Sadao Nishibori et al.	:	
Application No. 09/843,919	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. DE1615	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 14, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 15, 2008.

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

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on May 28, 2009, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A copy of the Advisory Action explaining why the amendment was not accepted is enclosed with this decision.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action

cc: Lowe Hauptman Ham & Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/843,919	Applicant(s) NISHIBORI ET AL.	
	Examiner Elizabeth M. Cole	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,5,10,13,15,22,26,27,31,34,38,39,43,44,48-51,57 and 61-63*.
   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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

Continuation of 3. NOTE: The proposed amendment raises new issue such as that the article has an "essentially" uniform thikcness. Further, the claims change the scope of the claims and would require careful consideration to be sure that there is support for the language currently employed

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 10 2009

OFFICE OF PETITIONS

In re Application of
Sadao Nishibori et al.
Application No. 09/843,919
Filed: April 30, 2001
Attorney Docket No. DE1615

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 14, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to the JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1794 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.

JoAnne Burke
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

NOV 5 2004

Mark R. Shanks
REED SMITH LLP
1301 K Street NW
Suite 1100 East Tower
Washington DC 20005-3373

In re Application of	:
Masayuki Fukumura et al	:
Serial No.: 09/843,922	: PETITION DECISION
Filed: April 30, 2001	:
Attorney Docket No.: 2144.0270001	:

This is a response to the petition under 37 CFR 1.59(b), filed August 30, 2004, to expunge information from the above identified application.

Petitioner requests that documents submitted August 30, 2004, as as part of an Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an examined application. The proprietary material submitted is a reference to an unpublished patent application which is listed on Form 1449 with other published (non-proprietary) documents. Note M.P.E.P. 724.02:

> 724.02 [R-2] Method of Submitting Trade Secret, Proprietary, and/or Protective Order Materials
> Information which is considered by the party submitting the same to be either trade secret material or proprietary material, and any material subject to a protective order, must be clearly labeled as such and be filed in a sealed, clearly labeled, envelope or container. Each document or item must be clearly labeled as a "Trade Secret" document or item, a "Proprietary" document or item, or as an item or document "Subject To Protective Order." It is essential that the terms "Confidential," "Secret," and "Restricted" or "Restricted Data" not be used when marking these documents or items in order to avoid confusion with national security information documents which are marked with these terms (note also MPEP § 121). ... Of course, the envelope or container, as well as each of the documents or items, must be labeled with complete identifying information for the file to which it is directed, including the Office or area to which the envelope or container is directed. Examples of appropriate labels for such an envelope or container addressed to an application are as follows: (Appropriate changes would be made for papers filed in a reexamination file.)

**
B. "PROPRIETARY MATERIAL NOT OPEN TO PUBLIC. TO BE OPENED ONLY BY EXAMINER OR OTHER AUTHORIZED U.S. PATENT AND TRADEMARK OFFICE EMPLOYEE.
>DO NOT SCAN<
In re Application of
Application No.
Filed:
For: (Title of Invention)
TC Art Unit:
Examiner:
**

The envelope or container must be accompanied by a transmittal letter which also contains the same identifying information as the envelope or container. The transmittal letter must also state that the materials in the envelope or container are considered trade secrets or proprietary, or are subject to a protective order, and are being submitted for consideration under MPEP § 724. A petition under 37 CFR 1.59 and fee therefor (37 CFR 1.17(h)) to expunge the information, if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent, **>should< accompany the envelope or container.

M.P.E.P. states that proprietary information must be submitted as a separate submission and be properly labeled, as detailed above. The information submitted on Form 1449 does not comply with M.P.E.P. 724.02 and will not be expunged from the file.

The petition is **DENIED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 703-872-9306.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 5

MAY 2 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington DC 20037

In re Application of: Manuel Gonzalez, et al.	)	
Application No. 09/843,931	)	
Filed: April 30, 2001	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR	)	**WITHDRAWAL AS ATTORNEY**
PERFORMING A DOWNLOAD	)	

This is a decision on the Request To Withdraw from Representation filed March 26, 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**.

No further communication to you regarding this application will be made. All future communications from the United States Patent and Trademark Office will continue to be directed to the below-listed address.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAMUEL C. MILLER
BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:
Bradley S. Carlson et al	:
Application No. 09/843,946	: DECISION GRANTING PETITION
Filed: April 30, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 032230-032	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 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 election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement Office action of July 13, 2004, is accepted as having been unintentionally delayed.

Additionally, the request for refund is dismissed in view of the Examiner's Interview Summary mailed February 1, 2005.

Further, the Revocation of Power of Attorney submitted on March 29, 2005, is improper since the requirements of 37 CFR 3.73(b) have not been met. A blank copy of the statement under 37 CFR 3.73(b) is attached for your convenience.

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

This matter is being referred to Technology Center AU 2876.

Karen Creasy

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

cc:
GEORGE LIKOUREZOS
CARTER, DELUCA, FARRELL & SCHMIDT,
445 BROAD HOLLOW ROAD - SUITE 225
MELVILLE, NY 11747

Attachment: Blank copy of Statement under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark D. McSwain
IBM ALMADEN RESEARCH CENTER, IP LAW DEPT.
650 Harry Road CHTA/J2B
San Jose, CA 95120

COPY MAILED
MAY 0 4 2005
OFFICE OF PETITIONS

In re Application of	:	
Dirk Husemann et al	:	DECISION
Application No. 09/843,968	:	ON PETITION
Filed: April 25, 2001	:	37 CFR 1.137(b)
Attorney Docket No. CH9-2000-0021	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 June 17, 2003. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is September 18, 2003.

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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action mailed June 17, 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.

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 the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Stephen Cronin at (571) 272-6051, or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1648 for appropriate action on the concurrently filed amendment.

Brian Hearn

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

CC: Richard M. Goldman
371 Elan Village Lane, Suite 208
San Jose, CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS LLP
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

COPY MAILED
AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:
Richard Hans Harvey	:
Application No. 09/844,043	: DECISION GRANTING PETITION
Filed: April 27, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 063170.6290 (20000109)	:

This is a decision on the petition, filed August 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2162 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\Aug9\844043.wpd

---

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

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

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

Mail Date: 05/06/2010

Applicant	: Richard Hans Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7631012	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/844,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **375** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 26 2004

#16

ROCHE PALO ALTO, LLC
3401 HILLVIEW AVENUE
INTELLECTUAL LAW DEPARTMENT, MS A2-250
PALO ALTO, CA 94304-9819

In re Application of	:
Nancy Elizabeth Krauss et al	:
Serial No.: 09/844,061	: PETITION DECISION
Filed: April 26, 2001	:
Attorney Docket No.: R0070B-REG	:

This is in response to the petition under 37 CFR 1.181, filed March 31, 2003, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a first Office action to applicants on December 14, 2001, setting forth a restriction requirement and telephonic election and rejecting the elected claims under 35 U.S.C.112, first and second paragraphs and under 35 U.S.C.102(b) and 35 U.S.C.103(a) for various reasons.

Applicants replied on March 8, 2002, amending some claims and presenting arguments with respect to each rejection. The examiner then mailed a Final Office action to applicants on May 6, 2002, withdrawing the rejections under 35 U.S.C. 112, first and second paragraphs, but maintaining two rejections under 35 U.S.C. 102(b) and setting forth two new rejections under 35 U.S.C. 102(b) and a new rejection under 35 U.S.C. 103(a).

Applicants first replied on August 6, 2002, amending again several claims and arguing the rejections. The examiner mailed an Advisory Action to applicants on September 6, 2002, the amendment would not be entered for various reason, but indicating that several rejections had been withdrawn leaving only a rejection under 35 U.S.C. 103(a).

Applicants then submitted a second amendment after Final rejection following a telephone interview with the examiner (no examiner interview record thereof) on October 2, 2002, with a two month extension of time and fee therefore. The examiner mailed a second Advisory Action to applicants on February 26, 2003, again refusing entry of the amendment for various reasons.

Applicants then submitted this petition to reset a reply period or to revive an unavoidably abandoned application. In the petition for resetting a reply period applicants cite the delay of over four months in mailing an Advisory action in response to the amendment filed October 2, 2002, and defects therein are grounds for resetting the date for reply to the outstanding Office

action. Applicants also argue, for the first time, that the Office action of May 6, 2002, was prematurely made Final, setting forth reasons therefore.

Applicants, however, misapprehend the ability of the Office to reset the start date of a statutory period. In this situation applicants timely received an Office action which was a Final Office action and which set a shortened statutory period for reply of three months, the maximum statutory period for reply being six months. By applicants receiving the Office action they were put on notice that a reply was required within six months which reply could be either an amendment which placed the application in condition for allowance, a Notice of Appeal or the filing of a continuing application (CPA or RCE). As of November 6, 2002, applicants had filed two amendments which, according to the examiner, did not place the application in condition for allowance. In neither amendment was an argument made that the Office action was prematurely made Final. That the second amendment was not considered and applicants notified of the results of that consideration prior to the expiration of the six month statutory period for reply did not relieve applicants of their responsibility to file either a Notice of Appeal or continuing application papers. It also is not grounds for resetting the date for reply to the date of the last Advisory action.

Thus the petition to reset the period for reply is **DENIED**.

Applicants' incorporated petition to remove the finality of the Office action of May 6, 2002, is untimely. A petition from an examiner's action under 37 CFR 1.181 must be filed within two months of the action complained of. It may also be required that the action be a repeated action. In this instance the action now being complained of is finality of the Office action. The repetition of this action was in the Advisory Action mailed September 6, 2002. The first argument raising this issue was not presented until March 31, 2003, more than six months after the repeated action and not as a separate petition, but as a supporting argument for resetting a date for reply. As such this petition is **DENIED** as untimely.

The alternative petition under 37 CFR 1.137(a) is inappropriate as it should be presented as a separate petition. It is also deficient in that It fails to set forth any circumstances which prevented applicants from filing a timely reply. Such circumstances are in the nature of events beyond the control of applicants or their representative that prevents a timely reply, such as a fire which destroys a place of business and records associated therewith. Since this petition does not present such circumstances this petition is also **DENIED**.

All petitions are **DENIED**.

The application will be forwarded for storage as appropriate.

Applicants may wish to seek revival of this application by filing of a petition under 37 CFR 1.137(b) with the Office of Petitions. The RCE papers would constitute the proper response required for revival under 37 CFR 1.137(b).

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

ROCHE PALO ALTO LLC
PATENT LAW DEPT M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO CA 94304

COPY MAILED

MAY 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Krauss, et al.	:	
Application No. 09/844,061	:	DECISION ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. R0070B-REG	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 25, 2004

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed May 6, 2002. Applicants filed an amendment on August 6, 2002. However, in an advisory action mailed on September 6, 2002, the examiner notified applicants that the amendment would not be entered because it failed to place the application in condition for allowance. Applicants filed another amendment on October 2, 2002, made timely by obtaining a two month extension of time. An advisory action was again mailed on February 26, 2003. No proper reply having been received before the end of the six month statutory period for reply, the application became abandoned on October 7, 2002. Applicants filed a petition to withdraw the holding of abandonment on March 31, 2003. However, this petition was denied in a decision mailed on February 26, 2004. A Notice of Abandonment was mailed on March 19, 2004.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of an amendment.

The application file is being forwarded to Group Art Unit 1624 for consideration of the RCE and the amendment, filed March 31, 2003.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P O BOX 4390
TROY, MI 48099-4390

COPY MAILED
SEP 2 6 2008

In re Application of John W. Hopkins Application No. 09/844,091 Filed: April 27, 2001 Attorney Docket No. 1835.3003.003	: : : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 2005.

The request is **APPROVED**.

The letter from attorney Walmsley dated December 13, 2005 that accompanies the above noted Request to Withdraw, clearly states that the applicant has failed to pay bill(s) for an unreasonable period of time. In the absence of any statement to the contrary from the applicant, the Request to Withdraw satisfies 37 CFR 10.40 (c) (1) (vi) and is granted.

In view of the decision noted above, the correspondence address has been changed to that of Mr. John W. Hopkins, the sole inventor. A courtesy copy of this decision is being mailed to the last known address of Mr. Hopkins as stated in the declaration filed April 27, 2001.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: John W. Hopkins
6868 Vachon Dr
Bloomfield Hills, MI 48301

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RECEIVED
OCT 16 2008
OFFICE OF PETITIONS

REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P O BOX 4390
TROY, MI 48099-4390

COPY MAILED
SEP 26 2008

In re Application of
John W. Hopkins
Application No. 09/844,091
Filed: April 27, 2001
Attorney Docket No. 1835.3003.003

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 2005.

The request is **APPROVED**.

The letter from attorney Walmsley dated December 13, 2005 that accompanies the above noted Request to Withdraw, clearly states that the applicant has failed to pay bill(s) for an unreasonable period of time. In the absence of any statement to the contrary from the applicant, the Request to Withdraw satisfies 37 CFR 10.40 (c) (1) (vi) and is granted.

In view of the decision noted above, the correspondence address has been changed to that of Mr. John W. Hopkins, the sole inventor. A courtesy copy of this decision is being mailed to the last known address of Mr. Hopkins as stated in the declaration filed April 27, 2001.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: John W. Hopkins
6868 Vachon Dr
Bloomfield Hills, MI 48301

Organization Office of Petitions Bldg./Room MDW

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, Va. 22313-1450
If Undeliverable Return In Ten Days

Official Business
Penalty For Private Use, $300

RECEIVED
OCT 15 2008
US PTO MAIL CENTER

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES POSTAGE
PITNEY BOWES
02 1M $ 00.42⁰
0004244939 SEP 30 2008
MAILED FROM ZIP CODE 22314

JOHN W. HOPKINS
6868 VACHON DR
BLOOMFIELD HILLS, MI 48301

NIXIE 483 DE 1 00 10/11/08
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 22313145050 *0117-08941-30-35

48301$2941 0078
22313@1450

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)
6,512,962	2003-01-28	09/844,128	2001-04-26	TUC9-2000-0075-US1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Spolyar/	Date (YYYY-MM-DD)	2007-10-25
Name	Mark J. Spolyar	Registration Number	42164

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. 6512962
Issue Date: January 28,2003
Application No. 09844128
Filed: April 26,2001
Attorney Docket No. TUC9-2000-0075-US1

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

This is a decision on the electronic petition, filed October 25,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 25,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

T. MURRAY SMITH ESQ.
BAKER BOTTS LLP
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

JAN 22 2003

OFFICE OF PETITIONS

In re Application of :
Paul Klocek et al :
Application No. 09/844,170 :
Filed: April 25, 2001 :
Attorney Docket No. 069078.0104 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 13, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114.

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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 19

T. MURRAY SMITH, ESQ.
BAKER BOTTS
SUITE 600
2001 ROSS AVENUE
DALLAS TX 75201-2980

COPY MAILED

SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of
Paul Klocek et al
Application No. 09/844,170
Filed: April 25, 2001
Attorney Docket No. 069078.0104

ON PETITION

This is a decision on the petition, filed September 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 25, 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 2874 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Jerry W. Mills, Esq.
Baker Botts LLP
2001 Ross Avenue, Suite 60
Dallas, TX 75201-2980

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Thomas R. Schimert et al
Application No. 09/844,171
Filed: April 25, 2001
Attorney Docket No. 004578.1104

: DECISION ON PETITIONS
: UNDER 37 CFR 1.137(b) AND
: 37 CFR 1.313(c)(2)

This is a decision on the petitions under 37 CFR 1.137(b) and 37 CFR 1.313(c)(2), filed February 24, 2003, to accept the unintentionally delayed payment of the issue fee and to withdraw the application from issue after acceptance of the issue fee.

The petitions are **granted**.

This application became abandoned for failure to timely pay the issue fee on or before February 19, 2003 as required by the Notice of Allowance and Fee(s) Due, mailed November 19, 2002.

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

Petitioner requests that this application be withdrawn from issue after revival in order to permit the filing of an Information Disclosure Statement and a Request for Continued Examination (RCE).

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 24, 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.

The file is being forwarded to Technology Center AU 2878 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

004578.1104

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

OIPE JAN 1 2 2004 PATENT & TRADEMARK OFFICE

DOCKETED

Paper No. 13

Jerry W. Mills, Esq.
Baker Botts LLP
2001 Ross Avenue, Suite 60
Dallas, TX 75201-2980

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Thomas R. Schimert et al
Application No. 09/844,171
Filed: April 25, 2001
Attorney Docket No. 004578.1104

DECISION ON PETITIONS
UNDER 37 CFR 1.137(b) AND
37 CFR 1.313(c)(2)

This is a decision on the petitions under 37 CFR 1.137(b) and 37 CFR 1.313(c)(2), filed February 24, 2003, to accept the unintentionally delayed payment of the issue fee and to withdraw the application from issue after acceptance of the issue fee.

The petitions are **granted**.

This application became abandoned for failure to timely pay the issue fee on or before February 19, 2003 as required by the Notice of Allowance and Fee(s) Due, mailed November 19, 2002.

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

Petitioner requests that this application be withdrawn from issue after revival in order to permit the filing of an Information Disclosure Statement and a Request for Continued Examination (RCE).

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 24, 2003 in the above-identified application cannot be refunded. If, however, th above-identifi d application is again allowed,

petitioner may request that it be applied towards the issue f e required by the new Notice of Allowance.[1]

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

The file is being forwarded to Technology Center AU 2878 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RIMAS LUKAS
530 JACKSON ST
2ND FLOOR
SAN FRANCISCO CA 94133

COPY MAILED
SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Baer, et al.	:	
Application No. 09/844,187	:	DECISION ON PETITION
Filed: April 26, 2001	:	TO WITHDRAW
Attorney Docket No. ARC01-20018.00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 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 cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 23, 2006.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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)
6,464,509	2002-10-15	09/844,188	2001-04-26	TUC920000090US1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Spolyar/	Date (YYYY-MM-DD)	2007-10-25
Name	Mark J. Spolyar	Registration Number	42164

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. 6464509
Issue Date: October 15,2002
Application No. 09844188
Filed: April 26,2001
Attorney Docket No. TUC920000090US1

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

This is a decision on the electronic petition, filed October 25,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 25,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

THE NOBLITT GROUP, PLLC
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE AZ 85251

In re Application of:	:
Willis et al.	: ON PETITION FOR
Application No. 09/844198	: ADJUSTMENT OF PATENT TERM
Filing or 371(c) Date: 04/27/2001	:
Atty. Docket No.: 10060.0100	:

This letter is in response to the "PETITION FOR ADJUSTMENT OF PATENT TERM PURSUANT TO 37 C.F.R. § 1.705(b)," filed June 3, 2009.

The request for Reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is hereby **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 1462 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 17, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1335 days.

On June 3, 2009, applicant timely submitted the present application for patent term adjustment[1]. Applicant asserts that the application is entitled to an additional patent term adjustment of 127 days in connection with the Notice of Allowance mailed April 17, 2009.

The application history has been reviewed and it has been determined that the initial reduction of the patent term for Applicant delay of 1335 days is incorrect. Applicant filed the reply to a restriction requirement filed August 11, 2008. Thereafter the Office mailed a Notice of Allowance on April 17, 2009. Thus, in accordance with 37 CFR 1.702(a)(2), the application is entitled to an additional 127 days of patent term adjustment, as argued. The adjustment commenced December 12, 2008, the day after the date that is four months after the reply to the restriction requirement was filed and ended April 17, 2009, the date that the Notice of Allowance was mailed. See, 37 CFR 1.703(a)(2).

[1] PALM records show that the Issue Fee payment was received in the Office on July 17, 2009.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 1462 days (adjustments totaling 1580 days less reductions totaling 118 days).

The Office acknowledges receipt of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e).

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculations

Day : Sunday
Date: 8/30/2009

PALM INTRANET

Time: 21:47:51

PTA Calculations for Application: 09/844198			
Application Filing Date:	04/27/2001	PTO Delay (PTO):	1453
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	118
Post-Issue Petitions:	0	Total PTA (days):	1462
PTO Delay Adjustment:	127		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	08/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	127		
56	04/17/2009	MAIL NOTICE OF ALLOWANCE			
55	01/12/2009	MISCELLANEOUS INCOMING LETTER			
54	08/11/2008	AMENDMENT CROSSED IN MAIL			
53	09/19/2008	EXAMINER'S AMENDMENT COMMUNICATION			
52	09/19/2008	ISSUE REVISION COMPLETED			
51	09/19/2008	DOCUMENT VERIFICATION			
50	09/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	09/10/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	09/15/2008	NOTICE OF ALLOWABILITY			
47	09/10/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
46	07/11/2008	MAIL RESTRICTION REQUIREMENT			
45	07/07/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
41	04/22/2008	DATE FORWARDED TO EXAMINER			
40	03/13/2008	RESPONSE AFTER NON-FINAL ACTION		56	38
39	03/13/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	10/17/2007	MAIL NON-FINAL REJECTION			
37	10/15/2007	NON-FINAL REJECTION			
34	08/02/2007	DATE FORWARDED TO EXAMINER			
33	07/30/2007	RESPONSE AFTER NON-FINAL ACTION			
32	07/20/2007	MAIL NON-FINAL REJECTION			
31	07/18/2007	NON-FINAL REJECTION			
28	05/14/2007	DATE FORWARDED TO EXAMINER			

27	05/07/2007	RESPONSE AFTER NON-FINAL ACTION			
26	04/03/2007	CORRESPONDENCE ADDRESS CHANGE			
25	02/07/2007	MAIL NON-FINAL REJECTION			
24	02/05/2007	NON-FINAL REJECTION			
23	11/26/2006	DATE FORWARDED TO EXAMINER			
22	11/20/2006	RESPONSE AFTER NON-FINAL ACTION		62	14
21	11/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	10/19/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
19	10/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	09/15/2006	CORRESPONDENCE ADDRESS CHANGE			
17	09/15/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	07/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	06/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	06/19/2006	MAIL NON-FINAL REJECTION	1453		-1
13	06/12/2006	NON-FINAL REJECTION			
12	05/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	08/05/2004	MISCELLANEOUS INCOMING LETTER			
10	05/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/02/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	11/11/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	10/30/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	06/25/2001	APPLICATION DISPATCHED FROM OIPE			
3	06/21/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/10/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/27/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here

and select Refresh.
Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE NOBLITT GROUP, PLLC
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE AZ 85251

MAILED

MAR 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,606,753	:	
Issued: October 20, 2009	:	
Application No. 09/844,198	:	ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 10060.0100	:	

This is a decision on the petition, filed January 13, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to change the assignee on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment correcting the assignee's name from "NETWORTH SERVICES, INC., PHILADELPHIA, PA (US)." to "NETWORTH SERVICES, INC., PHOENIX, AZ (US)" was recorded on December 16, 2009, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE NOBLITT GROUP, PLLC
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE, AZ 85251

Mail Date: 04/21/2010

Applicant	: Nicco Willis	: DECISION ON REQUEST FOR
Patent Number	: 7606753	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/844,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2585** 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.

09/844220

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10

DATE : 4/6/2007

TO SPE OF : ART UNIT 3700 (3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,584,360

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter changes as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

O.K. to Enter.

SPE 3739 **Art Unit**

09/844220

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10

DATE : 4/6/2007

TO SPE OF : ART UNIT 3700 (3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,584,360

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

***Ok to enter changes as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

O.K. to Enter.

SPE

3739
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 8

DEC 05 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

In re Application of
Elwin M. Beaty et al
Application No. 09/844,232
Filed: April 27, 2001
For: **METHOD AND APPARATUS FOR THREE DIMENSIONAL INSPECTION OF ELECTRONIC COMPONENTS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 13, 2002.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

George A. Leone, Sr. is removed from record.

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

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

cc: Elwin Beaty
4665 South Ash Ave., Suite G20
Tempe, AZ 85282

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)
6566371	2003-05-20	09844255	2001-04-30	01-522-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	/James G. Dilmore/	Date (YYYY-MM-DD)	2008-10-01
Name	James G. Dilmore	Registration Number	51618

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. 6566371
Issue Date: May 20,2003
Application No. 09844255
Filed: April 30,2001
Attorney Docket No. 01-40070-US

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

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

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Noguchi et al.	:	DECISION GRANTING
Application No. 09/844,274	:	PETITION UNDER
Filed: 30 April, 2001	:	37 CFR 1.55(c)
Attorney Docket No. 865.4346 CIP	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on 19 November, 2002, requesting acceptance of an unintentionally delayed claim under 35 USC 119 (a) - (d) for benefit of the filing date of the following foreign applications: Japanese Application Nos. 10-080208, filed on 12 March, 1998; and 11-033925, filed on 12 February, 1999.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge of, $1280.00, 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 above-identified pending nonprovisional application was filed on 30 April, 2001, which is after 29 November, 2000, is a continuation-in-part of Application No. 09/263,078, which claims priority to the above-identified Japanese applications. Application No. 09/263,078 was filed within 12 months of 12 March, 1998, which is the earliest filing date of the foreign applications to which benefit is claimed. A copy of the foreign priority documents has been located in the file of Application No. 09/263,078. The papers filed on 19 November, 2002, also include a formal claim to priority which identifies the foreign application for which priority is claimed. Pursuant to petitioner's authorization, the $1,280.00 surcharge has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition is **granted**.

The foreign priority claim has been entered in Office PALM records. A corrected Filing Receipt is enclosed which includes the foreign priority claims and projected publication date for the above-identified application.

The application will then be forwarded to Technology Center 2600 for consideration by the examiner of record of the foreign priority claims under 35 USC 119 and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: 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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

COPY MAILED
OCT 1 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Beverly L. Mangold, et al.	:	
Application No. 09/844,281	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 38602.0003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 $750; and (3) an adequate statement of unintentional delay.

It is noted that a non-final Office action was mailed to applicant on August 31, 2005. Where an application is abandoned, the examiner is without authority to act further in the case absent a decision by the Office of Petitions granting a petition to revive. Although the Office of Petitions did not process the present petition, the Examiner issued a non-final Office action. In order to ratify the examiner's action in this case, the petition to revive is being treated as having been granted prior to the mailing of the non-final Office action. Accordingly, the petition under 37 CFR 1.137(b) is granted, *nunc pro tunc.*

Petitioner should note that the period for reply to the non-final Office action continues to run from the mailing date (August 31, 2005) of that Office action. <u>No new period has been set as a result of this decision.</u>

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

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Mangold et al.	:	
Application No. 09/844,281	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 38602.0003	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

The person signing the instant petition does have 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1645 for further processing of the Request for Continued Examination filed under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: PATENTIQUE PLLC
P.O. BOX 5803
BELLEVUE, WA 98006

UNITED 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

Paper No. 10

GOODWIN PROCTER
103 EISERHOWER PARKWAY
ROSELAND, NJ 07068

COPY MAILED

NOV 04 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Schobler et al.	:	
Application No. 09/844,290	:	
Filed: April 27, 2001	:	
Attorney Docket No. 103888-522NP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 27, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 28, 2001. A Notice of Abandonment was mailed on December 9, 2003.

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

The instant application was forwarded to the Office of Initial Patent Examination (OIPE) for consideration of the request for the petition fee to be waived due to a timely response previously submitted. However, after a review of the application file, OIPE determined that a proper abstract was not submitted until submission of the instant petition on February 24, 2004. Accordingly, the $1330.00 petition will not be waived.

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

The file is now being returned to 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

cc: ANN-MARIE KOSS
GOODWIN PROCTER LLP
599 LEXINGTON AVENUE
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROCESSED BY
PG PUB DIVISION

JUN 26 2002

GALLAGHER & LATHROP
601 CALIFORNIA ST
SUITE 1111
SAN FRANCISCO CA 94108

Applicant: Oshima et al.
Appl. No.: 09/844,301
Filing Date: April 27, 2001
Title: MEMORY TESTING METHOD AND MEMORY TESTING APPARATUS
Attorney Docket No.: KP0116
Pub. No.: US 2001/0052093 A1
Pub. Date: December 13, 2001

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on April 23, 2002.

The request is DISMISSED.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." The request for corrected publication received on April 23, 2002 was not timely filed under 37 CFR 1.221(b). Morever, the instant request does not identify a material mistake in the publication made by the Office. An Office error in the publication of assignee data is not a material mistake. However, no error in the printing of the assignment information has been shown. Page 1of the transmittal letter for the application states:

> Assignment to Japan Aviation Electronics Industry Limited

Applicant states that the correct assignee is Advantest Corporation, and that while the transmittal letter identified Japan Aviation Electronics Industry Limited, the assignment papers identified Advantest Corporation. The Office prints the assignee information as reflected on the transmittal letter or other application papers, if provided by applicant and does not look at the assignment records for the assignment information.[1] As a result, printing an assignment to Japan Aviation Electronics Industry Limited does not appear to be an Office error. Applicant's request to change the assignment data, filed on October 18, 2001, was received too late in the publication process for the information to be used for publication of the application.

It should be noted that the bibliographic information (title of invention, name of inventor, etc.) on the patent application publication is based on the bibliographic information in the Office's electronic system as of the date the application is sent to the printing contractor. The electronic system will include any bibliographic information amendments submitted by applicant at the time of filing and any later corrections of the bibliographic information, such as corrections submitted

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63, 84 (Oct. 10, 2000) (final rule).

by applicant via the Patent Application Information Retrieval system. See questions and answer CF1, posted at http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm#cf. Therefore normal Office procedures were followed in this instance and applicant's request for a change in the assignee data was not used in the patent application publication.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta

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

Paper No. 17

MERCHANT & GOULD P.C.
PO BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of
Brandtjen, Jr. et al.
Application No. 09/844,310
Filed: April 27, 2001
Attorney Docket No. 12275.0013USC1

ON PETITION

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

The petition is **GRANTED.**

On May 28, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On July 21, 2003, a "Response under 37 CFR 1.116" was filed but, as indicated in the August 5, 2003 Advisory Action, did not place the application in condition for allowance and was not entered. The Advisory Action also pointed out that the period for responding to the May 28, 2003 final Office Action remained that set forth in that Office action.

No further response was filed on or before November 28, 2003, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on August 28, 2003.

The instant petition encloses a Request for Continued Examination (RCE) as reply to the May 28, 2003 final Office Action; the $385 RCE filing fee (small entity); an amendment (including a set of formal drawings) as the RCE "submission" required by 37 CFR 1.114; and the $665 petition fee (small entity). The petition also states in effect that the entire delay in filing a proper reply to the May 28, 2003 final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

Finally, the petition encloses a $475 payment intended for a 3-month extension of time (small entity) for filing the petition. However, an extension of time under 37 CFR 1.136 may only be obtained prior to expiration of the maximum extendable reply period.[1] The request for extension of time submitted with the instant petition is not applicable, in that, it is filed subsequent to the maximum extendable reply period, i.e., subsequent to November 28, 2003. Consequently, the $475 payment has been credited to Deposit Account No. 13-2725 as authorized in the petition.

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

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

RC Tang
Petitions Attorney
Office of Petitions

---

[1] See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES 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

Bacon & Thomas, PLLC
625 Slaters Lane
4th Floor
Alexandria, VA 22314-1176

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of	:
Lee	: DECISION ON PETITION
Application No. 09/844,319	:
Filed: April 27, 2001	:
Atty. Dkt. No.: T JK/172	:

This decision is in response to the petition under 37 CFR 1.137(a), filed June 9, 2004.

This application was held abandoned February 6, 2004 in response to a petition for express abandonment filed January 2, 2004. The Notice of Abandonment was withdrawn August 9, 2004. Accordingly, the instant petition is hereby **DISMISSED AS MOOT**.

The previously submitted petition fee of $110.00 has been refunded to petitioner's deposit account.

This application is being forwarded Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STA PATENT AND TRADEMARK OFFICE

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

DEC 11 2001

Paper No. 7

In re Application of
Casey Norman *et al*
Application No. 09/844,322
Filed: April 26, 2001
Attorney Docket No. 1391-CON-00

: DECISION ON PETITION

This is a decision on the petition to make special filed on November 6, 2001 by which petitioners request that this application be accorded special status for advanced examination out of turn.

The petition is granted.

The basis for the petition is the existence of an actual infringement. A review of the petition shows that it satisfies all of the elements required by MPEP 708.02(II), which governs petitions based upon the existence of an actual infringement.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3712, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Schnader, Harrison, Segal & Lewis LLP
1600 Market Street
Suite 3600
Philadelphia, PA 19103-7286

BEST AVAILABLE 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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FLOOR
NEW YORK, NY 10151

COPY MAILED
JAN 25 2010

In re Application of	:
Tomoko TERAKADO, et *al.*	:
Application No. 09/844,354	: DECISION GRANTING PETITION
Filed: April 27, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **450100-4138.1**	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 21, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2424 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

COPY MAILED

APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
D. Scott Jorgenson	:	
Application No. 09/844,381	:	DECISION ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 10005476-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $500.00; (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Additionally, it is noted that petitioner has filed an Appeal Brief and $500.00 fee on August 8, 2007.

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

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

This application is being referred to Technology Center AU 2155 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Chakkalamattam J. Paul, et al. :
Application No. 09/844,398 : DECISION ON PETITION
Filed: April 27, 2001 :
Attorney Docket No. AUS920000858US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 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 non-final Office action mailed, May 2, 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 August 3, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

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

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

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: FRANCES LAMMES
WALDER INTELLECTUAL PROPERTY LAW, PC
5050 QUORUM DRIVE
SUITE 700
DALLAS, TX 75254

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/844,420	04/26/2001	2142	1490	CISCP207	8	50	6

CONFIRMATION NO. 1366

CORRECTED FILING RECEIPT

OC000000013977100

22434
BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

Date Mailed: 10/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ian Michael Charles Shand, Cobham, UNITED KINGDOM;
Mark T. Schaefer, Belmont, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2001

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US09/844,420

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Methods and apparatus for requesting link state information

Preliminary Class
709

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5901

COPY MAILED

JUN 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Hanson, Richard A.	:	
Application No. 09/844,437	:	ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 2026-2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed February 25, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 26, 2003. A Notice of Abandonment was mailed January 12, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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 pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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.[2]

---

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

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

The instant petition lacks item (1). It is unclear as to why the petitioner submitted an Issue Fee Transmittal form, along with the $700.00 issue fee payment, as a Notice of Allowance has not yet been issued. The above-identified application became abandoned for failure to respond to a final Office action issued by the examiner on February 25, 2003. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. A copy of the Office action is enclosed for petitioner's convenience.

In view of the above, the issue fee payment of $700.00 is unnecessary and a refund check will be mailed to petitioner in due course.

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

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

cc: RICHARD D. MULTER
P.O. BOX 2384
SHELTON, WA 98584

Enclosure: Office Action previously mailed on February 25, 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

RICHARD D. MULTER
P.O. BOX 2384
SHELTON WA 98584

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Hanson, Richard A.	:	
Application No. 09/844,437	:	ON PETITION
Filed: April 27, 2001	:	
Title: Load Transducers	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

KING & SPALDING
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

MAILED

SEP 25 2002

Technology Center 2100

In re Application of: Timothy P. Farley, et al.	)	
Application No. 09/844,447	)	
Filed: April 27, 2001	)	DECISION ON REQUEST FOR
For: METHOD AND SYSTEM FOR	)	WITHDRAWAL AS ATTORNEY
MANAGING COMPUTER	)	
SECURITY INFORMATION	)	

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

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

The request is GRANTED.

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

FOR

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COPY MAILED

DEC 26 2001

OFFICE OF PETITIONS

W. Scott Petty, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

In re Application of
Houston et al.
Application No. 09/844,448
Filed: April 27, 2001
Attorney Docket No. 05456.105005

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed September 24, 2001, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on April 27, 2001, without an executed oath or declaration. Accordingly, on June 21, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply of August 21, 2001.

In reply, applicant filed a petition, petition fee and the surcharge for late filing of the declaration. To make timely the reply, a one month extension of time was also submitted. In support of the petition, applicants submitted the affidavit of Sheila A. Burks, Senior Counsel of assignee, copies of the employment contract, correspondence to the joint inventors and a oath or declaration.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the **entire** application package (including specification, claims and drawings) the non-signing inventor Christian Kobsa

refused to sign the declaration after having been presented with the application papers. The letter mailed to the joint inventors only indicates the declaration and assignment documents were presented to the non-signing inventor. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Thus on renewed petition, applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

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

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

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

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

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

Beverly M. Flanagan
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. 11

W. Scott Petty, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

COPY MAILED

AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Gregory Neil Houston, Christian D. Kobsa, Sridhar Embar, Matthew Thaddeus Di Ioria, Bryan Douglas Williams and Michael George Nikitaides
Application No.09/844,448
Filed: April 27, 2001
Attorney Docket No. 05456.105005
Title of Invention: SYSTEM AND METHOD FOR MANAGING SECURITY EVENTS ON A NETWORK

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 5, 2002 (certificate of mailing date February 25, 2002) and supplemented on August 9, 2002.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Sridar Embar and Christian D. Kobsa refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Sheila A. Burks attest a copy of the application was mailed via express mail to the non-signing inventor Embar. The supplemental petition establishes application papers were mailed to inventor Kobsa. The non-signing inventors' failure to respond to the application papers sufficiently establishes inventors Embar and Kobsa refuse to execute the application papers.

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

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

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

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

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

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

Christian D. Kobsa
2107 Masters Way
Alpharetta, GA 30005

COPY MAILED

AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Gregory Neil Houston, Christian D. Kobsa, Sridhar Embar, Matthew Thaddeus Di Ioria, Bryan Douglas Williams and Michael George Nikitaides
Application No.09/844,448
Filed: April 27, 2001
Attorney Docket No. 05456.105005
Title of Invention: SYSTEM AND METHOD FOR MANAGING SECURITY EVENTS ON A NETWORK

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

Dear Mr. Kobsa:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

W. Scott Petty, Esq.
KING & SPALDING
191 Peachtree Street, N.E.
45th Floor
Atlanta, GA 30303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 1 5 2002

OFFICE OF PETITIONS

Sridhar Embar
6871 Peachtree Dunwoody Road #244
Atlanta, Georgia 30303

In re Application of
Gregory Neil Houston, Christian D. Kobsa, Sridhar Embar, Matthew Thaddeus Di Ioria, Bryan Douglas Williams and Michael George Nikitaides
Application No.09/844,448
Filed: April 27, 2001
Attorney Docket No. 05456.105005
Title of Invention: SYSTEM AND METHOD FOR MANAGING SECURITY EVENTS ON A NETWORK

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

Dear Mr. Embar:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

W. Scott Petty, Esq.
KING & SPALDING
191 Peachtree Street, N.E.
45th Floor
Atlanta, GA 30303

#13
10/22/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 22 2002

Paper No. 13

W. Scott Petty, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

In re Application of: Gregory N. Houston, et al.	)	
Application No. 09/844,448	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
Filed: April 27, 2001	)	
For: METHOD AND SYSTEM FOR MANAGING SECURITY EVENTS ON A NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

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

The request is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Beck & Tysver, P.L.L.C.
Suite 100
2900 Thomas Avenue South
Minneapolis, MN 55416

COPY MAILED
AUG 1 4 2005
OFFICE OF PETITIONS

In re Application of	:	
James C. Hillegass, et al.	:	
Application No. 09/844,475	:	ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 2160	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to file a timely reply to a non-final Office action.

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 noted that petitioner submitted a request for a three-month extension of time with the petition. An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/28/06

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/844484 Patent No.: 6763597B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2828
Art Unit

OIPE IAP15
MAR 14 2006
PATENT & TRADEMARK OFFICE

6,963597 cofc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Evans et al.**

Serial No.: **09/844,484**

Filed: **April 27, 2001**

For: **Grating-Outcoupled Surface-Emitting Lasers**

§
§ Group Art Unit: **2828**
§
§ Examiner: **Nguyen, Dung T.**
§
§ Attorney Docket No.: **PDGM-3**
§

Certificate of Mailing Under 37 C.F.R. § 1.8(a)
I hereby certify this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on March 9, 2006.

By: Bell Whitton
Bell Whitton

Entered 07/27/06 DW

TRANSMITTAL DOCUMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
MAR 17 2006
of Correction

Sir:
ENCLOSED HEREWITH:

- Request for Certification of Correction of Office Mistake;
- Certificate of Correction; and
- Our return postcard.

No fees are believed to be necessary. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to Yee & Associates, P.C. Deposit Account No. 50-3157.

Respectfully submitted,

Duke W. Yee
Registration No. 34,285
YEE & ASSOCIATES, P.C.
P.O. Box 802333
Dallas, Texas 75380
(972) 385-8777
ATTORNEY FOR APPLICANTS

MAR 20 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Evans et al.**

Serial No.: **09/844,484**

Filed: **April 27, 2001**

For: **Grating-Outcoupled Surface-Emitting Lasers**

OIPE IAP15 MAR 14 2006 PATENT & TRADEMARK OFFICE

§ Group Art Unit: **2828**

§ Examiner: **Nguyen, Dung T.**

§ Attorney Docket No.: **PDGM-3**

Certificate of Mailing Under 37 C.F.R. § 1.8(a)
I hereby certify this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on March 9, 2006.

By: Dell Whitton
Dell Whitton

REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We would like to request a Certificate of Correction of Office Mistake with regard to issued patent 6,963,597 B2.

There is an error with respect to the following data:

Col. 16, line 16: before "to couple light" delete "connected".

Col. 16, line 31: before "thereon" insert --formed--.

Col. 16, line 40: after "have a" delete "lint" and insert --first--.

No fees are believed to be necessary. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to Yee & Associates, P.C. Deposit Account No. 50-3157.

Respectfully submitted,

Duke W. Yee
Registration No. 34,285
YEE & ASSOCIATES, P.C.
P.O. Box 802333
Dallas, Texas 75380
(972) 385-8777
ATTORNEY FOR APPLICANTS

MAR 20 2006

PTO/SB/44 (04-04)
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. : 6,963,597 B2

DATED : Nov. 8, 2005

INVENTOR(S) : Evans et al.

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

Col. 16, line 16: before "to couple light" delete "connected".

Col. 16, line 31: before "thereon" insert –formed–.

Col. 16, line 40: after "have a" delete "lint" and insert –first–.

MAILING ADDRESS OF SENDER:

Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380

PATENT NO: 6,963,597 B2

No. of additional copies

0

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.

MAR 20 2006

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

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Alan Wolffe	: DECISION ON REQUEST FOR
Patent Number	: 7217509	: RECALCULATION of PATENT
Issue Date	: 05/15/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/844,501	: OF WYETH
Filed	: 04/27/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Driemeyer et al. :
Application No. 09/844,511 : ON PETITION
Filed: April 28, 2001 :
Attorney Docket No. MENT-059 :

This is a decision on the petition filed August 2, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed June 20, 2001 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

---

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

an extension of time had elapsed and since no proper reply had been received, the application became abandoned on August 21, 2001. Accordingly, a Notice of Abandonment was mailed July 7, 2003.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

---

[3]35 U.S.C. § 133.

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

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

---

[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAY 1 6 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 7

Francis E. Morris
Pennie & Edmonds LLP
3300 Hillview Avenue
Palo Alto CA 94304

In re Application of: George D. Cannon et al.	)	
Application No. 09/844,523	)	
Filed: April 27, 2001	)	
For: SYSTEM AND METHOD FOR DETERMINING SUITABLE BREAKS FOR INSERTING CONTENT	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed January 29, 2001 and the supplemental communication filed April 26, 2002.

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

The request is **GRANTED**.

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

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

cc: Kimble Cannon
PSM Global, Inc.
1306 Vincent Place
Mclean, Virginia 22101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 1 2 2007

OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:	
ZENG, et al.	:	
Application No. 09/844,544	:	DECISION ON PETITION
Filed: April 27, 2001	:	TO WITHDRAW
Attorney Docket No. STAN 190	:	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 9, 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 Pamela J. Sherwood 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.

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.

There is an outstanding Office action mailed January 08, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEFU ZENG**
3091 ALMA STREET
PALO ALTO, CA 94306

cc: **VERN NORVIEL, ESQ.**
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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
09/844,544	04/27/2001	Defu Zeng	STAN 190

CONFIRMATION NO. 3043

OC000000021975280

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2006.

- 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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

February 2, 2005

Richard W. Goldstein
2071 Clove Rd.
Staten Island, NY 10304

In re Application of:
Juan Bautista
Serial No: 09/844,593 On Petition
Filing Date: April 27, 2001
For: WIRE MEASURING SYSTEM

In response to the petition received on March 1, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Corrected Application Papers mailed June 20, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned August 21, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Corrected Application Papers mailed June 20, 2001.

The application will be completed with the documents received on March 1, 2004, for release to Technology Center 2859.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEVIN CATTENHEAD
PO BOX 78683
LOS ANGELES CA 90018

Paper No. 10

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Kevin CATTENHEAD	:	
Application No. 09/844,613	:	DECISION ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before January 02, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed October 02, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 03, 2003.

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

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

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost five (5)and one-half years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 03, 2003. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Richard W. Goldstein was the party having the right to reply at the date of abandonment, Goldstein should explain why this application became abandoned while it was under his control and what efforts Goldstein made to further reply and with whom this matter was discussed. When did Goldstein and Kevin Cattenhead become aware of the abandonment of this application? Additionally, Goldstein and Cattenhead must explain the circumstances surrounding the discovery of the abandonment of this application almost five (5) and one-half years after the mailing of the Notice of Abandonment.

When, did Goldstein and Cattenhead become aware of the fact that the issue fee and publication fee had not been paid? When did Cattenhead realize that the check was returned for insufficiency of funds? What effort was made to reply?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Kevin Cattenhead and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As

the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

Kevin Cattenhead must explain the statement "Because she refused to give me a simple divorce, I didn't want her to have any claims on this invention, so I didn't pursue it until I could get a divorce", and why this statement does not represent a deliberate and voluntary intention not to revive the application. The mere subsequent change in circumstance, does not remove the voluntary intention previously stated by petitioner.

Pay stubs dated from April 25, 2008 to May 15, 2008 are not pertinent to demonstrate petitioner not having funds for the years 2003-2007. Applicants statements fail to establish that he was unable to diligently respond to the Notice of Abandonment for failure to pay issue and publication fees.

The statements that petitioner was not checking "the other account", but had funds for a motel, and additionally the presence of the suggestion of other sources to obtain money appear to indicate that petitioner did not consider the patent application as his most important business which may be perceived as intentional acts.

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted i1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, five and one-half years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007) (protracted delay in seeking revival undercuts assertion of unintentional delay).

The power of attorney filed by the inventor with the petition on May 30, 2008 has been accepted and made of record.

Any renewed petition may be addressed as follows:

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

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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

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
www.uspto.gov

KEVIN CATTENHEAD
PO BOX 78683
LOS ANGELES CA 90018

Paper No. 12

COPY MAILED

AUG 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Kevin CATTENHEAD	:	
Application No. 09/844,613	:	DECISION ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 02, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before January 02, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed October 02, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 03, 2003.

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

Applicant failed to carry the burden of proof to establish that the "entire" delay was unintential.

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

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost five (5)and one-half years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 03, 2003. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Richard W. Goldstein was the party having the right to reply at the date of abandonment, Goldstein should explain why this application became abandoned while it was under his control and what efforts Goldstein made to further reply and with whom this matter was discussed. When did Goldstein and Kevin Cattenhead become aware of the abandonment of this application? Additionally, Goldstein and Cattenhead must explain the circumstances surrounding the discovery of the abandonment of this application almost five (5) and one-half years after the mailing of the Notice of Abandonment.

When, did Goldstein and Cattenhead become aware of the fact that the issue fee and publication fee had not been paid? When did Cattenhead realize that the check was returned for insufficiency of funds? What effort was made to reply?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Kevin Cattenhead and whoever else was involved with this

application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

Kevin Cattenhead must explain the statement "Because she refused to give me a simple divorce, I didn't want her to have any claims on this invention, so I didn't pursue it until I could get a divorce", and why this statement does not represent a deliberate and voluntary intention not to revive the application. The mere subsequent change in circumstance, does not remove the voluntary intention previously stated by petitioner.

Pay stubs dated from April 25, 2008 to May 15, 2008 are not pertinent to demonstrate petitioner not having funds for the years 2003-2007. Applicants statements fail to establish that he was unable to diligently respond to the Notice of Abandonment for failure to pay issue and publication fees.

The statements that petitioner was not checking "the other account", but had funds for a motel, and additionally the presence of the suggestion of other sources to obtain money appear to indicate that petitioner did not consider the patent application as his most important business which may be perceived as intentional acts.

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted i1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, five and one-half years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007) (protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

Michelle R. Eason

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
www.uspto.gov

KEVIN CATTENHEAD
PO BOX 78683
LOS ANGELES CA 90016

Paper No. 14

COPY MAILED
FEB 01 2010

In re Application of	:	
Kevin CATTENHEAD	:	
Application No. 09/844,613	:	DECISION ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 02, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed October 02, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 03, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $720.00 and publication fee of $300.00, (2) the petition fee of $770.00.00, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted has being 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 3765 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

MAIL

DEC 05 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Elwin M. Beaty et al :
Application No. 09/844,626 :
Filed: April 27, 2001 :
For: **METHOD AND APPARATUS FOR THREE DIMENSIONAL INSPECTION OF ELECTRONIC COMPONENTS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 13, 2002.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

George A. Leone, Sr. is removed from record.

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

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

cc: Elwin Beaty
4665 South Ash Ave., Suite G20
Tempe, AZ 85282

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

COPY MAILED

MAY 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Bingwei V. Yang :
Application No. 09/844,646 :
Filed: April 27, 2001 :
Attorney Docket No. PC10839A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 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 June 25, 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 26, 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

OIPE JC17
AUG 0 6 2001
PATENT & TRADEMARK OFFICE

03CO
Box-SEQ

PATENT
Attorney Docket No. **UM-06105**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Julia E. Richards *et al.*	
Serial No.:	09/844,653	Group No.:
Filed:	04/27/01	Examiner:
Entitled:	**Detecting And Treating Eye Disease**	

RESPONSE TO NOTICE TO FILE MISSING PARTS

Application Processing Division,
Special Processing and Correspondence Branch
Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 CFR § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231, on **August 2, 2001**.

By: Mary Ellen Waite
Mary Ellen Waite

Sir or Madam:

In response to the Notice to File Missing Parts of Application -- Filing Date Granted (Form PTO-1533) mailed **07/20/01** (a copy of which is enclosed), applicants submit the following documents:

- Executed declaration or oath
- an Assignment document for recording whereby the subject application and the invention disclosed therein is assigned to The Regents of the University of Michigan, 3003 South State Street, Wolverine Tower, Room 2071, Ann Arbor, MI 48109-1280 and a Recordation Form Cover Sheet -- Patents Only (Form PTO-1595)
- Power of Attorney by Assignee
- Sequence Listing in paper copy and on a computer-readable diskette
- Certificate re: Sequence Listing

A check in the amount of **$105.00** is enclosed herewith to cover:

$65.00 surcharge for filing missing parts of an application

$40.00 recordation fee

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. **08-1290**. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

Dated: August 2, 2001

Jason R. Bond
Registration No. 45,439

MEDLEN & CARROLL, LLP
220 Montgomery Street, Suite 2200
San Francisco, California 94104
415/705-8410

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE
AUG 0 6 2001
PATENT & TRADEMARK OFFICE

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/844,653	04/27/2001	Julia R. Richards	UM-06105

CONFIRMATION NO. 1588

FORMALITIES LETTER

OC000000006325137

MEDLEN & CARROLL, LLP
Suite 2200
220 Montgomery Street
San Francisco, CA 94104

Date Mailed: 07/20/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

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

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**

08/08/2001 BNGUYEN1 00000004 09844653

01 FC:205 65.00 OP

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

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC173
AUG 0 6 2001
PATENT & 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

Cooley Godward LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON, VA 20190-5061

MAILED

AUG 2 6 2005

Technology Center 2100

In re Application of: THEKKATH	)	
Application No. 09/844,669	)	**DECISION ON PETITION TO**
Attorney Docket No. MTEC-003/00US	)	**WITHDRAW HOLDING OF**
Filed: 30 April 2001	)	**ABANDONMENT UNDER 37 CFR**
For: TRACE CONTROL FROM	)	**§1.181**
HARDWARE AND SOFTWARE	)	
	)	

This is a decision on the petition, filed 21 April 2005 requesting the Withdrawal of the Abandoned status of the above-identified application, under 37 CFR §1.181. Although a Notice of Abandonment has not yet been mailed, the instant application was deemed abandoned for failure to respond to the Office Action of 3 August 2004, as the statutory six-month period for response had expired sans a submission from Applicant.

The petition is **GRANTED.**

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. Petitioner also provides a copy of the docket record "where the non-received action would have been entered". Additionally, the petition furnishes a copy of the mail log at the address where the action would have been received, and the referenced address reflects the Patent Office's address of record for the instant Application.

Petitioner has established non-receipt of the Office action according to the requirements set forth supra. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment (restore the instant application to pending status) and to redate/remail the Office action originally mailed August 3, 2004.

Any questions regarding this decision may be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

GO

UNITED STATES 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.

Chad Anson
THOMPSON & KNIGHT L.L.P.
1200 San Jacinto Center
98 San Jacinto Boulevard
Austin, TX 78701-4081

MAILED

JAN 07 2005

Technology Center 2100

In re Application of:
Geouge et al.
Application No. 09/844,701
Filed: April 27, 2001
For: ADAPTABLE WIRELESS PROXIMITY NETWORKING

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 signer of the petition, Herbert J. Hammond is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

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

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

James R. Matthews

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Neal R. Butler :
Application No. 09/844,714 :
Filed: April 21, 2005 : DECISION ON PETITION
Title of Invention: :
UNIVERSAL DIGITAL :
IDENTIFICATION SYSTEM AND :
CARD :

This is a decision on the Petition for Certificate of Correction Under 37 C.F.R. § 1.183, filed March 25, 2005. The petition requests a change in the name of the assignee after payment of the issue fee. The petition is properly treated under 37 C.F.R. §3.81(b). The delay in treating this petition is regretted.

The petition is **granted in part**.

The petition requests that the name BAE SYSTEMS Information and Electronic Systems Integration Inc., Nashua, NH, appear as the assignee on the issued patent.

Unfortunately, the petition did not reach the appropriate deciding official until after the patent issued and the assignment data could not be printed on the patent.

As such, the petition is dismissed in so far as correction of assignment data could not be printed on the patent.

Applicant's deposit account has been charged the processing fee, $130.00 (fee code 1808). The processing fee has been deducted from the $400.00 petition fee charged to Applicant's deposit account. The balance, $270.00, has been refunded to deposit account 23-2825, as authorized in the present petition.

It is also noted that Applicant has requested a Certificate of Correction under 37 CFR 1.323.

The fee for a Certificate of Correction has been charged to deposit account 23-2825, as authorized in the present petition.

The petition is granted in so far as the requested Certificate of Correction will be issued.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

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

Paper No. 24

MAIL

NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of
Carol S. Gruchala, et al.
Application No. 09/844,716
Filed: April 25, 2001
For: **METHOD AND SYSTEM FOR PROVIDING A WORK-AT-HOME TELECOMMUNICATION SERVICE**

DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed July 20, 2004 pursuant to 37 CFR § 1.181 (a). No fee is required.

This application became abandoned for failure to timely file a response to the final Office action mailed November 10, 2003. A Notice of Abandonment was mailed July 1, 2004.

Petitioner alleges that a request for continued examination (RCE) was timely filed along with a one month extension of time request and an amendment. Petitioner provides as evidence a copy of the return post card receipt date stamped by the Office on March 12, 2004, a copy of the RCE transmittal request and a copy of the amendment.

A review of the application file reveals the original submissions of the request for continued examination has been matched with the application. The RCE transmittal was date stamped as received March 12, 2004. The filing fee in the amount of $770.00 and the one (1) month extension of time was processed on March 15, 2004. The RCE request satisfies all of the requirements in accordance with 37 CFR §1.114. In view of the above, the holding of abandonment is withdrawn. Any inconvenience caused petitioner is regretted.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the Technology Center's (i.e., TC2600) Technical Support Staff for processing the request for continued examination. From there, the application will be forwarded to the examiner for appropriate action.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

KENNETH P. GEORGE
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVE
NEW YORK, NY 10016

COPY MAILED

SEP 07 2004

OFFICE OF PETITIONS

In re Application of :
Hamzeh Karami, et al. :
Application No. 09/844,726 :
Filed: April 27, 2001 :
Attorney Docket No. 34294/20 :

ON PETITION

~~In re Application of~~ :
~~Hamzeh Karami, et al.~~ :
~~Application No. 10/470,625~~ :
~~Filed: February 27, 2004~~ :
~~Attorney Docket No. 34294/46~~ :

This is a decision on the petition under 37 CFR 1.137(b) filed June 7, 2004, to revive Application No. 09/844,726. This petition is also being treated under 37 CFR 1.182 as a request to treat the application papers filed February 27, 2004 as an continuation application under 37 CFR 1.53(b) of prior application No. 09/844,726. The $130.00 petition fee is being charged to counsel's deposit account as authorized.

A review of the record of Application No. 09/844,726 reveals that the application became abandoned on November 27, 2003 for a failure to reply in a timely manner to the final Office action mailed August 26, 2003. A Notice of Abandonment was not mailed in the application. It is noted that on February 27, 2004, applicant submitted a preliminary amendment, a copy of a published application, an unexecuted declaration and fees totaling $2,120. For some unknown reason, the papers filed February 27, 2004 were treated as a timely response to the August 26, 2003 final Office action. On March 12, 2004, an Advisory Action was mailed stating that the proposed amendments would not be entered since they present additional claims without canceling a corresponding number of finally rejected claims.

In response, on June 7, 2004, the present petition was filed wherein petitioner explains that the papers filed February 27, 2004, were intended as a new continuation application of the above-identified application. Petitioner requests that the application papers be treated as a continuation application under 37 CFR 1.53(b) and accorded a filing date of February 27, 2004. Further, petitioner submits a Notice of Appeal as a proposed reply to the final Office action and requests that instant application also be revived for the purpose of continuity with the continuing application filed February 27, 2004.

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

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The petition under 37 CFR 1.182 is **GRANTED.**

The continuation application under 37 CFR 1.53(b) has been assigned application No. 10/470,625. All further correspondence concerning the continuation application filed on February 27, 2004, should be directed to application No. 10/470,625.

In view of this decision, the papers filed February 27, 2004, have been removed from the file of application No. 09/844,726 and placed in the file of application No. 10/470,625. Since the petition filed June 7, 2004 in Application No. 09/844,726 is also being treated as a petition under 37 CFR 1.182 in Application No. 10/470,625, a copy of the petition (without exhibits) is being made of record in Application No. 10/470,625.

The $2,120 fees paid on February 27, 2004 in Application No. 09/844,726 will be reapplied to the filing fees of Application No. 10/470,625.

Application No. 10/470,625 will then be forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), with a filing date of February 27, 2004.

Application No. 09/844,726 will be returned to Technology Center AU 3761.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

MAIL

JAN 05 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Law Office of John Schipper
Suite 808
111 N Market Street
San Jose CA 95113

In re Application of
Jae Shim
Application No. 09/844,757
Filed: April 26, 2001
For: VOICE-BASED PHONE ALERT SIGNAL

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 6, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is* ***granted.*** John F. Schipper is withdrawn from the record.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Jae Shim
5944 Killarney Circle
San Jose, CA 95138

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wm Bruce Day
DAY LAW FIRM, P.C.
4330 BELLEVIEW, SUITE 300
KANSAS, MO 64111-3579

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Young : DECISION ON PETITION
Application No. 09/844,803 :
Filed: April 27, 2001 :
Attorney Docket No.: 97-401 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 1, 2002 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed July 31, 2002. The Notice set a three (3) month statutory period for reply. Notice of Abandonment was mailed December 9, 2002.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed.

Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Toby H. Kusmer
McDermott, Will & Emery
28 State Street
Boston MA 02109-1775

COPY MAILED
SEP 1 9 2005
OFFICE OF PETITIONS

In re Application of	:	
REHM et al.	:	DECISION
Application No. 09/844,815	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 39484-054 (BYRK-5; MSE-2610)	:	

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 application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed February 11, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 12, 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 the issue fee of $1400 and the publication fee of $300; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee and publication fee payments are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Patent Publication.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 21 2004

WAK

In re Application of	:	
Franzene	:	
Serial Number: 09/844,860	:	DECISION
Filed: April 27, 2001	:	ON
For: FOOTWEAR MANUFACTURING SYSTEM	:	PETITION

This is in response to the petition filed May 25, 2004 requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least thirty days between approval of withdrawal of attorney of record and the expiration date of a time response period so that the Office can attempt to notify the applicant of the withdrawal and the applicant may have sufficient time to act. In this case there was less than thirty days. Also note that there is no evidence, presently of record, that applicant was given timely notice of the withdrawal by the attorney.

The Petition is **Denied**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael S. Neustel
Neustel Law Offices, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

PERKINS SMITH & COHEN LLP
ONE BEACON STREET
30TH FLOOR
BOSTON, MA 02108

COPY MAILED

APR 05 2002

OFFICE OF PETITIONS

In re Application of
Bharti Temkin et al
Application No. 09/844,881
Filed: April 28, 2001
For: DEVELOPMENT OF STEREOSCOPIC-HAPTIC VIRTUAL ENVIRONMENTS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 17, 2002.

The petition is granted.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2673 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRK L WATSON
2321 WINDRIFT WAY
ROUND ROCK, TX 78664

COPY MAILED

APR 05 2002

OFFICE OF PETITIONS

In re Application of
Temkin; Watson; and Acosta
Application No. 09/844,881
Filed: April 28, 2001
For: DEVELOPMENT OF STEREOSCOPIC-HAPTIC VIRTUAL ENVIRONMENTS

Dear Mr. Watson:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
PERKINS SMITH & COHEN LLP
ONE BEACON STREET
30TH FLOOR
BOSTON, MA 02108

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 5

HELENE PLOTKA WORKMAN
1 INFINITE LOOP, MS: 38-PAT
CUPERTINO CA 95014

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of	:
Peterson et al.	: DECISION ON PETITION
Application No. 09/844,921	: UNDER 37 CFR 1.78(a)(3)
Filed: 26 April, 2001	:
Attorney Docket No. P1403USC2	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 28 January, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/482,745, filed on 13 January, 2000.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14)..

> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) 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 present pending application was filed on 26 April, 2001, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/482,745 is granted as of the date of filing the petition.

A corrected Filing Receipt which includes the priority claim to the above-noted, prior filed nonprovisional application, and that the revised projected publication date has not yet been determied, for the present application accompanies this decision on petition.

As authorized, the $1,280.00 fee required by 37 CFR 1.78(a)(3) has been charged to counsel's deposit account.

The application is being forwarded to Technology Center Art Unit 2122 for processing the amendment filed on 28 January, 2002, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTENTION: ANTHONY J. JANIUK, ESQ.
Q-RNA, INC.
SUITE 408
3960 BROADWAY
NEW YORK, NY 10032

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Munishkin et al.	:	
Application No. 09/844,935	:	ON PETITION
Filed: April 27, 2001	:	
Attorney Docket No. 30318-110 (Q01/08C)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 15, 2005.

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

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

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

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

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

cc: STEPHEN J. GAUDET
PERKINS SMITH & COHEN LLP
ONE BEACON STREET, 30TH FLOOR
BOSTON, MA 02108-3106

UNITED STATES 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 : 11-07

COPY MAILED

DEC 1 0 2007

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

In re Application of
Ackerman, et al.
Application No. 09/844,947
Filed: 27 April, 2001
Attorney Docket No. SP01-095

DECISION

This is a decision on the petition filed on 18 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, alternatively, to revive an application under 37 C.F.R. §1.137(a), alleging abandonment due to unavoidable delay.

> NOTE: Petitioner's plea for relief under 37 C.F.R. §1.181 appears neither in the title of the paper nor the opening paragraphs thereof, but, rather, in the third-to-last paragraph of the paper. While the Office will address herein both routes of relief sought, Petitioner's attention is drawn to the provisions of the Rules of Practice,[1] which instruct applicants/practitioners to make clear and express the intents of papers filed—whether that be in the filing of separate papers and/or the complete entitlement of the paper(s)—to alert Office staff accordingly.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

BACKGROUND

The record reflects that:

[1] See: 37 C.F.R. §1.4.

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 March, 2007, with reply due on or before 12 June, 2007;

- on 23 May, 2007, Petitioner filed an amendment-after-final, which Petitioner, as one registered to practice before the Office, knew or should have known was not as of right and was not a proper reply if it did not *prima facie* place the application in condition for allowance,[3] and on 9 August, 2007, the Examiner refused to enter the amendment and mailed an Advisory Action;

- the application went abandoned after midnight 21 June, 2007;

- the Office mailed the Notice of Abandonment on 11 October, 2007;

- on 18 October, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a reply in the form of a Notice of Appeal with a request and fee for extension of time had been timely and properly filed, accompanied by a date stamped ("SEP 04 2007") receipt card (see: MPEP §503[2]), a copy of the required reply, such showings in documents and statement as are consistent with the guidance in the Commentary at MPEP §711.03(c))—

---

[3] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c); also MPEP §714.13.)

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

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

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

and the record evidences charges of that date for a request and fee for extension of time, as well as a fee for the Notice of Appeal.

It also is noted that the record reflects that Petitioner filed the Appeal Brief (with fee) on 31 October, 2007.

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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running 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]

---

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

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

---

(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

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

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §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 C.F.R. §1.10(c), (d), * (e), or (g) (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 under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the

---

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

> 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 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 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.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

<u>As to Allegations</u>
<u>of Unavoidable Delay</u>

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a proper reply, a showing of unavoidable delay, and–where appropriate—a terminal disclaimer and fee.

It appears that this petition is moot.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 11 October, 2007, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and the fee refunded.

The instant application is released to Technology Center 1700 to await the Examiner's Answer in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) 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

[9] 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

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

MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Sally Kay SWART, et al	:	
Application No. 09/844,965	:	DECISION ON PETITION
Filed: April 27, 2001	:	TO WITHDRAW
Attorney Docket No. 163.1385US01	:	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 January 22, 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).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed January 11, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 05-03

Paper No. 7

CLINE H. WHITE
JACKSON WALKER, LLP
112 E. PECAN, SUIT 2100
SAN ANTONIO TX 78205

COPY MAILED

MAY 0 7 2003

OFFICE OF PETITIONS

In re Application of	:
Savoie et al.	: DECISION GRANTING
Application No. 09/844,970	: PETITION
Filed: 27 April, 2001	:
Attorney Docket No. P-3032.01(UTI)	:

This is a decision on the petition filed on 3 August, 2001, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 27 April, 2001, rather than the presently accorded filing date of 29 April, 2001.

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail service on 27 April, 2001. In support, on 3 August, 2001, petitioner supplied a copy of Express Mail Label No. EL548126105US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label, however, appears to be "04/29/01". The Express Mail label also contains an official USPS postmark, however, dated 27 April, 2001.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 07-2400.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **27 April, 2001**. Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE IAP86
JUL 2 7 2006
PATENT & TRADEMARK OFFICE

$ COFC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No: **7,056,227**

In re Patent Application of:
Giraldi

Serial No.: 09/844989

Filed: June 06, 2006

Date: **July 25, 2006**

For: Golf Putter Having Varied Striking Surface

I hereby certify that this correspondence and/or fee is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Alexandria, VA in accordance with 37 C.F.R. §1.8, on this day

(Date of Deposit) July 25 2006

(Signature and Date) 7-25-06

Mail Stop – Certificate Of Correction Branch
Commissioner of Patents and Trademarks

Certificate
JUL 2 8 2006
of Correction

TRANSMITTAL

Sir:

The above reference patent was printed with Figure 4 being incorrect and inconsistent with the figure filed in the original application. The error was clerical in nature and was made without deceptive intent. The proper Figure 4 is provided with a Certificate Of Correction.

The required fee pursuant to 37 CFR 1.20(a) is provided herewith.

07/27/2006 MBIZUNES 00000051 7056227
01 FC:1811 100.00 OP

Respectfully Submitted,

Eric A. LaMorte
Reg. No. 34,653
Attorney For Applicant

LaMorte & Associates
P.O. BOX 434
Yardley, PA 19067

CONSIDERED: /TD/

AUG 1 2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,056,227

APPLICATION NO.: 09/844,989

ISSUE DATE : June 06, 2006

INVENTOR(S) : Giraldi

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:

Figure 4 printed with the patent application was not part of the original patent application. The proper Figure 4 is herein provided as a replacement sheet.

The replacement Fig. 4 should be substituted for the Fig. 4 that was printed in the patent.

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

Eric LaMorte
LaMorte & Associates P.C.
P.O. Box 434, Yardley PA 19067

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.

2006

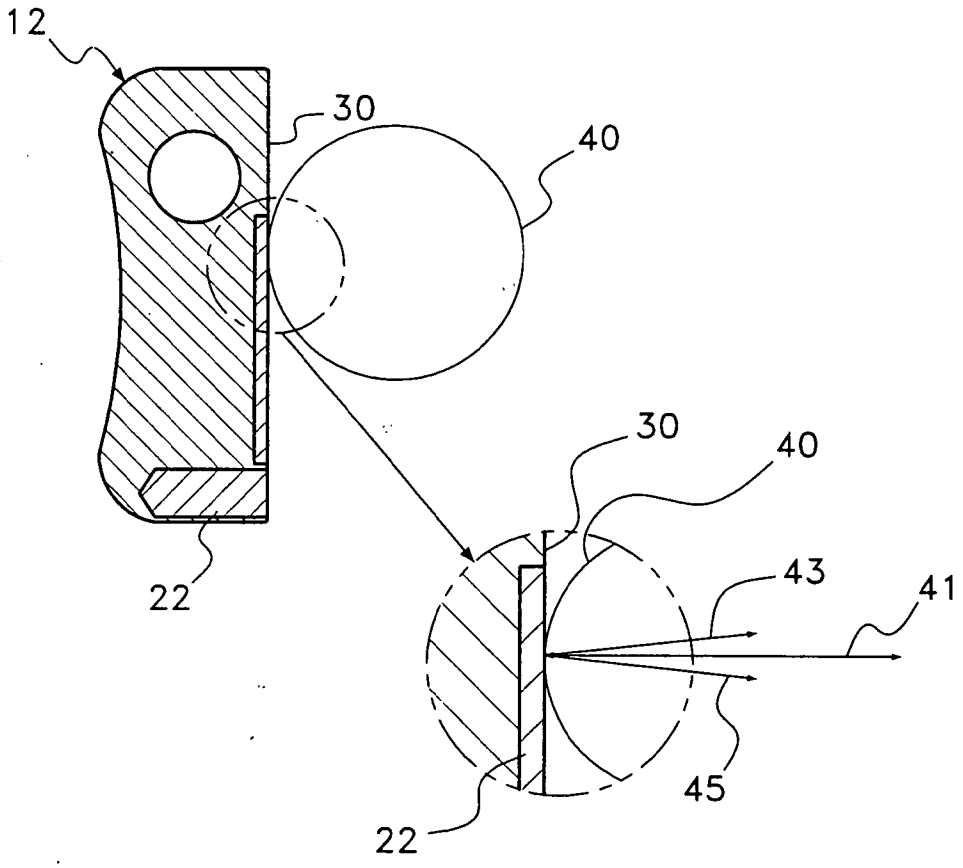


Fig. 4

AUG 1 2006

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

James W. Peterson
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

MAILED

SEP 0 4 2002

Technology Center 2100

In re Application of: Jacob DREYBAND, et al.)
Application No. 09/844,993)
Filed: April 27, 2001) **DECISION ON REQUEST FOR**
For: DESCRIPTIVE DATA CONSTRUCT) **WITHDRAWAL AS ATTORNEY**
MAPPING METHOD AND)
APPARATUS

This is a decision on the Request To Withdraw from Representation filed July 24, 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 24, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Ms. Maria Nilva
CREATIVE SCIENCE SYSTEMS, INC.
1475 S. Bascom Avenue, Suite 108
Campbell, CA 95008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Patent Department
Mitsubishi Electric Research
Laboratories, Inc.
201 Broadway
Cambridge MA 02139

COPY MAILED
DEC 19 2005
OFFICE OF PETITIONS

In re Application of

Divakaran, et al.

Application No. 09/845,009

Filed: April 27, 2001

Attorney Docket No. MH-5071

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 4, 2004, which set a shortened statutory period for reply of three (3) months. A proper response to the non-final Office action was not received within the allowable period. Accordingly, the application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on November 22, 2004.

The amendment filed November 21, 2005, is noted.

The application is being forwarded to Technology Center 2600, GAU 2613 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

JACQUES M. DULIN, ESQ.
INNOVATION LAW GROUP, LTD.
224 W. WASHINGTON STREET
SUITE 201
SEQUIM WA 98382-3338

COPY MAILED

DEC 03 2003

OFFICE OF PETITIONS

In re Application of
Jacques M. Dulin et al.
Application No. 09/845,016
Filed: April 27, 2001
Attorney Docket No. 24347-051US

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 29, 2003, by facsimile transmission, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/325,242, filed June 3, 1999.

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). 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) of the prior-filed application, unless previously submitted;[1]
>
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) 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 present pending application was filed on April 27, 2001, and was copending with

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed May 12, 2003, by facsimile transmission, under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/325,242 is granted as of the date of filing the petition.

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

As authorized, the $1,300.00 fee required by 37 CFR 1.78(a)(3) has been charged to counsel's deposit account.

The application is being forwarded to Technology Center Art Unit 3661 for processing the amendment filed on May 12, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional application.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

OIPE JC106
MAY 07 2004
PATENT & 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. 18

Arthrocare Corporation
680 Vaqueros Avenue
Sunnyvale, CA 94085-3523

ON PETITION

COPY MAILED
FEB 12 2004
OFFICE OF PETITIONS

In re Application of
James P. Tasto et al.
Application No. 09/845,034
Filed: April 27, 2001
Attorney Docket No. 606-032000

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to 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 continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to change any additional fees due, the $1330 issue fee will be charged to Deposit Account No. 50-0359.

Petitioner is advised that the issue fee paid on 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) 308-6911.

The application is being forwarded to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee**. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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
www.uspto.gov

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

COPY MAILED

APR 08 2005

OFFICE OF PETITIONS

In re Application of
Bruce A. Kehr, et al.
Application No. 09/845,066
Filed: May 7, 2001
Attorney Docket No.: 20010427

ON PETITION

This is a decision on the petition filed March 10, 2005, to correct the filing date to April 27, 2001, rather than the presently accorded filing date of May 7, 2001. This petition is treated under 37 CFR 1.10.

Petitioners request the earlier filing date on the basis that in accordance with 37 CFR 1.10 the application was properly filed, and base the claim on the date the certificate of mail, pursuant to 37 CFR 1.8, was signed.

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.[1] (emphasis added)

Petitioners should note that there is no requirement under 37 CFR 1.10 for a certificate of mailing by "Express Mail",[2]

Since petitioners are relying on the Certificate of Mail as proof of deposit on April 27, 2001, and since petitioners have not provided any other corroborating evidence of the filing date, the date presently accorded, May 7, 2001, will not be changed and the instant petition is **DISMISSED**.

Furthermore, the petition fee for a petition under 37 CFR 1.10 is $400.00 not $130.00

---

[1] See 37 CFR 1.6(a).

[2] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

as indicated in the petition. Per the authorization in the petition, deposit account no. 50-0417 will be charged in the amount of $400.00.

This matter is being referred to Technology Center 3626 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

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

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Application of
Bruce A. Kehr et al.
Application No. 09/845,066
Filed: May 7, 2001
Attorney Docket No. 20010427

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

This is a decision on the petition filed May 3, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international PCT application (Application No. PCT/US98/03933).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Where a nonprovisional application is claiming the

benefit under 35 U.S.C. 120 of a prior national stage application under 35 U.S.C. 371, a suitable reference would read "This application is a continuation of U.S. Application No. 08/---, which was the National Stage of International Application No. PCT/DE95/---, filed ---.".

Applicant's reference states this application also claims the benefit of priority under 35 U.S.C. 365(c) from PCT application No. PCT/US98/0933. However, U.S. Application No. 10/492,710 is the National Stage of International Application No. PCT/US98/0933. Thus the reference fails to include the relationship and refers to the PCT application rather than to the U.S. application.

With respect to the claim to the provisional applications, "...which in turn claims" does not comply with 37 CFR 1.78(a)(2)(i). A proper reference is "claims the benefit of provisional patent application ....." When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet. In addition, for an application which is claiming the benefit under 35 U.S.C. 120 of a prior application, which in turn claims the benefit of a provisional application under 35 U.S.C. 119(e), a suitable reference would read, "This application is a continuation of U.S. Application No. 10/---, filed ---, which claims the benefit of U.S. Provisional Application No. 60/---, filed ---.". [1]

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR

---

[1]The relationship (i.e., continuation, divisional, or continuation-in-part) is not required and should not be specified when a prior provisional application is being claimed under 35 U.S.C. 119(e). No relationship should be specified because whenever a priority claim to a provisional application under 35 U.S.C. 119(e) is made, it is implicit that the relationship is "nonprovisional application of a provisional application." If a relationship between a prior provisional application and the nonprovisional application is submitted, it may be unclear whether the applicant wishes to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e) or 120. Thus, applicants seeking to claim the priority to a provisional application under 35 U.S.C. 119(e) should not state that the application is a "continuation" of a provisional application or that the application claims 35 U.S.C. 120 benefit to a provisional application. Although 35 U.S.C. 120 does not preclude a benefit claim to a provisional application, it is not recommended that applicants claim the benefit to a provisional application under 35 U.S.C. 120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application pursuant to 35 U.S.C. 154(a)(2). *See MPEP 201.11*

1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are 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 fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

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

COPY MAILED

DEC 1 1 2007

OFFICE OF PETITIONS

In re Application of
Bruce A. Kehr et al.
Application No. 09/845,066
Filed: May 7, 2001
Attorney Docket No. 20010427

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and
: UNDER 37 CFR 1.78(a)(6)
:

This is a decision on the renewed petition filed July 20, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed non-provisional applications set forth in the amendment filed with the petition. The petition is also treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the amendment filed with the petition.

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. 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.

A petition filed May 3, 2007 was dismissed in a decision mailed June 22, 2007 because the amendment failed to state the relationship between the applications as required by 37 CFR 1.78(a)(2)(i). With respect to the 371 application, applicant's reference stated this application also claims the benefit of priority under 35 U.S.C. 365(c) from PCT

application No. PCT/US98/0933. However, U.S. Application No. 10/492,710 is the National Stage of International Application No. PCT/US98/0933.

The instant renewed petition corrects the reference to non-provisional application no. 10/492,710 which is the National Stage of International Application No. PCT/US98/0933 and includes that the instant application is a Continuation in Part of application no. 10/492,710.

However, the renewed petition is still dismissed because the amendment does not state the relationship between applications 08/955,952 filed October 22, 1997 and 08/924,917 filed September 8, 1997, as required by 37 CFR 1.78(a)(2)(i). As previously stated, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Where a nonprovisional application is claiming the benefit under 35 U.S.C. 120 of a prior national stage application under 35 U.S.C. 371, a suitable reference would read "This application is a continuation of U.S. Application No. 08/---, which was the National Stage of International Application No. PCT/DE95/---, filed ---.".

Additionally, further review reveals that a proper benefit claim to the prior applications is not set forth in application 10/492,710. A proper benefit claim to a chain of prior applications must include proper references to each prior application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must have been made in each intermediate application in the chain of prior applications. See MPEP 201.11 In other words, it is not sufficient to simply include specific references as to all prior applications. All references must be proper. A benefit claim to a chain of prior applications will only be effective if each prior application actually includes a proper benefit claim. See also Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 OG 89 (March 18, 2003). The amendment is therefore unacceptable and before a petition for delayed claim to priority under 37 CFR 1.78(a)(3) and (a)(6) can be granted in the present application, petitioner must file a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) in application 10/492,710.

Finally, the reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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). *Note* MPEP §§ 201.06(c) and 608.04(b). A review of the amendment reveals that it at least improperly incorporates by reference several of the prior applications. Any amendment submitted on renewed petition should be carefully reviewed to ensure that it does not include an improper incorporation by reference statement.

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 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required. Any ADS filed after the application filing date must be signed in accordance with 37 CFR 1.33(b) and must be titled "Supplemental Application Data Sheet". See 37 CFR 1.76.

Petitioner is reminded that the delay in filing a late benefit claim must be unintentional. Accordingly, petitioner should not intentionally delay filing a renewed petition.

Petitioner is also reminded that pursuant to 35 U.S.C. §119(e) the petition under 37 CFR 1.78(a)(6) must be filed during the pendency of the application. Accordingly, any petition in this application or application no. 10/492,710 directed to the benefit claims to the provisional applications must be filed before either application issues as a patent.

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 inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of
JJ Garcia-Luna-Aceves, et. al.
Application No. 09/845,088
Filed: April 26, 2001
Attorney Docket No. 5543P003

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

This is a decision on the communication filed on October 27, 2006, which is being 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 prior-filed nonprovisional applications filed in the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition fails to comply with items (1) and (3) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR

1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Further, the instant petition fails to contain the statement required by 37 CFR § 1.78(a)(3), which states 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. Therefore, any renewed petition must contain the required the statement under 37 CFR § 1.78(a)(3).

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

As authorized, the petition fee of $1,370 will be charged to petitioner's deposit account.

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

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

By hand: Customer 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 Andrea Smith at (571) 272-3226.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5). The Application Data Sheet or substitute amendment must also state the relationship of the prior-filed applications to this application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

MAR 1 8 2009

OFFICE OF PETITIONS

In re Application of
JJ Garcia-Luna-Aceves, et. al.
Application No. 09/845,088
Filed: April 26, 2001
Attorney Docket No. 5543P003

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The 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 amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Since a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) does require an additional petition fee, the petition fee of $1,410 submitted on September 29, 2008 will be refunded to petitioner's deposit account.

It is noted that a Request for Continued Examination under 37 CFR 1.114 and $810 fee set forth in 37 CFR 1.17(e) has been timely paid on September 29, 2008. Accordingly, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 2454 for further processing in accordance with this decision.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

JUN 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
JJ Garcia-Luna-Aceves, et. al.	:	
Application No. 09/845,088	:	DECISION ON PETITIONS
Filed: April 26, 2001	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 5543P003	:	

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 27, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ryan W. Elliott 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.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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.

This application is being forwarded to Technology Center Art Unit 2454, 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

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
09/845,088	04/26/2001	2454	858	5543P003	21	2

CONFIRMATION NO. 1603

CORRECTED FILING RECEIPT

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000034182185

Date Mailed: 06/11/2009

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)

JJ Garcia-Luna-Aceves, San Mateo, CA;
Bradley R. Smith, Santa Cruz, CA;

Power of Attorney:

Stanley Sokoloff--25128
Edwin Taylor--25129
Roger Blakely Jr--25831
Norman Zafman--26250
Eric Hyman--30139
James Scheller Jr--31195
Lester Vincent--31460
Maria Sobrino--31639
James Thein--31710
William Kidd--31772

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/200,404 04/28/2000
and claims benefit of 60/200,401 04/28/2000
and claims benefit of 60/200,511 04/28/2000
and claims benefit of 60/200,402 04/28/2000
and claims benefit of 60/200,403 04/28/2000
and is a CIP of 09/810,148 03/15/2001 PAT 7,162,539
which claims benefit of 60/190,331 03/16/2000
and claims benefit of 60/200,401 04/28/2000

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 **US 09/845,088**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD FOR CONTROLLING ACCESS TO CONTENT CARRIED IN A CACHING ARCHITECTURE

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

COPY MAILED

NOV 23 2004

OFFICE OF PETITIONS

In re Patent No. 6,766,070	:
Keith J. Williams et al.	:
Issue Date: July 20, 2004	: LETTER REGARDING
Application No. 09/845,111	: PATENT TERM ADJUSTMENT
Filed: April 27, 2001	: AND
Atty Docket No. 80,245	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This letter is in response to the "PETITION FOR CORRECTION OF PAIR DATABASE AND FOR ENTRY OF CERTIFICATE OF CORRECTION TO CORRECT THE PATENT TERM CALCULATION UNDER 35 USC 154(B)," filed July 22, 2004, notifying the Office of an error in patentees favor, in the determination of patent term adjustment.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ZERO (0) days.

Patentees are given **Two (2) Months** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On July 20, 2004, the above-identified application matured into U.S. Patent No. 6,766,070. The patent issued with a Patent Term Adjustment of 52 days. Patentee states that the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) of 52 days shown in the PAIR system was incorrect. On July 22, 2004, the instant petition was filed.

Patentee's arguments are well taken.

A review of the application history confirms that the patent term adjustment of 52 days indicated in the PAIR database and on the patent is in error. The application was entitled to a patent term adjustment of 145 days for Office delay in mailing a first notification under 35 U.S.C. 132 on November 19, 2002, fourteen months and 145 days after the filing date of the application, April 27, 2001.

A review of the application history also reveals that there are additional periods to be calculated in the reduction of the patent term adjustment. The PALM record only shows a reduction of 28 days for patentees' filing a response on March 19, 2003 to a non-Final Office Action mailed November 19, 2002 and a reduction of 65 days for the filing of drawings after the Notice of Allowance was mailed on March 4, 2004. Patentees assert that a submission was filed November 18, 2003, 3 months and 68 days after the mailing of the Final Office Action mailed May 20, 2003 and that the total number of days for applicant delay should be one hundred sixty-one (161) days.

Patentees are correct that an additional period of reduction should be entered due to their delay in responding to the final Office action mailed May 20, 2003. However, the period of reduction pursuant to § 1.704(b) is 90 days (not 68 days) the number of days in the period beginning on August 21, 2003 and ending on November 18, 2003.

In addition, a review of the record reveals that the reduction of 65 days for filing of drawings after the mailing of the notice of allowance is incorrect. 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;

The drawings were filed on March 17, 2004, not May 17, 2004. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment should have been reduced by the number of days beginning on the date the other paper was filed, March 17, 2004, and ending on the date of issuance of the patent, July 20, 2004. As this period exceeds four months, the patent term adjustment should have been reduced by the lesser period of 120 days.

In view thereof, the correct determination of PTA is one hundred forty-five (145) days - twenty-eight (28) days - ninety (90) days - one hundred twenty (120) days for a total of ZERO days.

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 petition fee in the amount of $130.00 will be credited back to deposit account no.

50-0281. The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ZERO (0) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Karin A Ferriter
for

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCKLEY, MASCHOFF, TALWALKAR LLC
5 ELM STREET
NEW CANAAN, CT 06840

COPY MAILED

DEC 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Otero et al.	:	
Application No. 09/845,138	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. G08.052	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely and properly reply to the final Office action mailed April 8, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on July 9, 2004.

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

The Notice of Appeal filed October 29, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 fee submitted with the petition on October 29, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

This matter is now being referred to Technology Center 3600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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

COPY MAILED
AUG 0 8 2003
OFFICE OF PETITIONS

In re Application of :
Wei-Chiang Shen et al. :
Application No. 09/845,153 : DECISION ON PETITION
Filed: May 1, 2001 :
Attorney Docket No.: :
1696.0020008/RWE/BEC :
Title: METHODS AND COMPOSITIONS :
FOR LIPIDIZATION OF HYDROPHILIC :
MOLECULES

This is a decision on the petition filed March 29, 2002, requesting that application number 09/845,153 be accorded a filing date of May 1, 2001.

The Office regrets the delay in issuing this decision.

The application was deposited on May 1, 2001 without drawings. On June 26, 2001, the Office of Initial Patent Examination, (OIPE) sent a notice. On February 1, 2002, OIPE sent a second notice (Notice), withdrawing the previous notice, stating that it had been sent in error, and further setting forth that the application had been deposited without drawings. The Notice indicated that a filing date had not been accorded, and that a filing date would be accorded upon the depositing of drawings.

In response, on March 29, 2002, applicants filed the present petition. Petitioner has not submitted the missing drawings, and has asserted that they are not required.

MPEP 608.02 states, in part:

> An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:
>
> (A) at least one process claim including the term "process" or "method" in its introductory phrase;
>
> (B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;
>
> (C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));
>
> (D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or
>
> (E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).
>
> For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g). If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that each claim is directed to either a composition or a method. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as originally filed, is entitled to a filing date of May 1, 2001.

Accordingly, the petition is **GRANTED**.

The Notice, mailed on February 1, 2002, was sent in error, and is hereby **VACATED**. As such, no petition fee is necessary, and the petition fee has been refunded to petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 1, 2001, using the application papers filed on that date.

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

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and
Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 2 4 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wei-Chiang et al :
Application No. 09/845,153 :
Filed: May 1, 2001 :
Attorney Docket No. 1696.0020008/RWE/BEC :

This is a decision on the petition, filed January 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 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1653 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

O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH, CA 92660

COPY MAILED

MAY 24 2006

OFFICE OF PETITIONS

In re Application of	:
Dennis W. Wahr et al	:
Application No. 09/845,162	: DECISION GRANTING PETITION
Filed: May 1, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 891,144-005	:

This is a decision on the petition, filed May 23, 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 October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3763 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\may9\845162.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Zhonghua Lu et al :
Application No. 09/845,178 :
Filed: April 27, 2001 :
Attorney Docket No. 56373USA9A.002

This is a decision on the petition, filed March 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

This matter will be forwarded to Technology Center AU 1746 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
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Fish & Richardson P.C., P.A.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402

---

[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

3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

COPY MAILED

OCT 26 2005

OFFICE OF PETITIONS

In re Application of :
Zhonghua Lu et al :
Application No. 09/845,178 : DECISION GRANTING PETITION
Filed: April 27, 2001 : UNDER 37 CFR 1.181
Attorney Docket No. 56373USA9A.002 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.[1]

The petition is **GRANTED**.

A Notice of Abandonment was mailed on February 18, 2005, stating that the application was abandoned for failure to timely pay the issue fee, which was due on or before January 6, 2005.

Petitioner asserts that the issue fee was paid prior to the due date of January 6, 2005. In support, petitioner has proffered a copy of the "Auto-Reply Facsimile Transmission" report, which discloses that the completed Part B - Fee(s) Transmittal form was transmitted to the USPTO on December 21, 2004 at 4:28 PM.

The file record does not include the originally submitted fee transmittal. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed,

---

[1] While a decision on the petition filed March 16, 2005 to withdraw from issue was rendered on March 22, 2005, no action was taken on the concurrently filed petition to revive.

terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of October 6, 2004 is hereby withdrawn.

No fee has been assessed to the instant petition and none has been charged.

The issue fee in reply to the second Notice of Allowance and Fee(s) Due was timely received on May 27, 2005. Accordingly, this matter is being referred to Publishing Division for processing into a patent.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 3, 2007

Patent No. : 6,864,102 B2
Inventor(s) : van Damme, et al.
Issued : March 8, 2005
Title : **DEVICE FOR PERFORMING AN ASSAY, A METHOD FOR MANUFACTURING SAID DEVICE, AND USE OF A MEMBRANE IN THE MANUFACTURE OF SAID DEVICE**
Docket No. : 65959/4

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Amster, Rothstein & Ebenstein
90 Park Avenue
New York NY 10016

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH P. GEORGE
AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Patent No. 6864102	:	
Issue Date: 03/08/2005	:	
Application No. 09/845198	:	ON PETITION
Filed: 05/01/2001	:	
Attorney Docket No. 65959/4	:	

This is a decision on the petition filed 8 March, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

HAMILTON BROOK SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

OCT 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Gerald Koelsch et al :
Application No. 09/845,226 :
Filed: April 30, 2001 :
Attorney Docket No. 2932.1008-003 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON BROOK SMITH & REYNOLDS PC
530 VIRGINIA ROAD
P O BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Thomas E. Gorsuch	:
Application No. 09/845,241	: DECISION GRANTING PETITION
Filed: April 30, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2479.2026-000	:

This is a decision on the petition, filed March 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2682 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).*

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)
6668839	2003-12-30	09845249	2001-05-01	004859.00002

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul M. Rivard/	Date (YYYY-MM-DD)	2008-03-04
Name	Paul M. Rivard	Registration Number	43446

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. 6668839
Issue Date: December 30,2003
Application No. 09845249
Filed: May 1,2001
Attorney Docket No. 04859.00002

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

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

The petition is GRANTED.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Carella, Byrne, Bain, Gilfillan, Cecchi,
Stewart & Olstein
5 Becker Farm Road
Roseland, NJ 07068

COPY MAILED

FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Frank Thomas	:	
Application No. 09/845,280	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2004, 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 referred to Technology Center 3700 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

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

April 2005

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112

APR 12 2005

In re Application of:
Tadayasu Meguro et al.
Serial No.: 09/845,286
Filed: May 1, 2001
Attorney Docket No.: 35.C15514

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "REQUEST FOR WITHDRAWAL OF ERRONEOUSLY ISSUED NOTICE OF ABANDONMENT" filed on October 12, 2004. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

A final Office action was mailed on May 30, 2003. An after-final amendment was filed on September 5, 2003. The after-final amendment included a Certificate of Mailing dated September 2, 2003 making it timely under the provisions of 37 C.F.R. §§ 1.7 and 1.8. An advisory action was mailed on October 14, 2003 indicating that the after-final amendment would not be entered because it raised new issues that would require further consideration and/or search. A Notice of Abandonment was mailed on September 21, 2004. Although the Notice of Abandonment indicates that the application was abandoned in view of applicant's failure to timely file a proper reply to the advisory action of October 14, 2003, it was actually held abandoned for failure to timely file a proper reply to the final Office action mailed on May 30, 2003.

A proper reply to a final rejection under 37 C.F.R. § 1.113 may only be either (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Petitioner asserts that a Request for Continued Examination (RCE) and Petition for Extension of Time (EOT) were timely filed in the United States Patent and Trademark Office (USPTO) on October 28, 2003. To support this assertion, petitioner has submitted copies of the RCE and EOT and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the RCE and EOT by the USPTO on October 28, 2003.

A review of the application file record reveals that the RCE and EOT having been acknowledged as being received in the USPTO on October 28, 2003 are not of record in the application file and cannot be located. On the other hand, Office records indicate that the fees for an RCE and a 2 month EOT were received and posted.

In any case, 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the RCE and EOT were timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed September 21, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The RCE filed with the petition on October 12, 2004 will be processed by the Technology Center 2800 support staff and the examiner will be prepare an Office action considering the after-final amendment/reply filed on September 5, 2003 as requested in the RCE.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

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

United States Patent and Trademark Office

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

Paper No. 10

ARMSTRONG, WESTERMAN & HATTORI. LLP
1725 K Street, NW
Suite 1000
Washington, DC 20006

MAILED

OCT 1 0 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of	)	
Akiyoshi Osakada	)	
Application No. 09/845,327	)	DECISION ON PETITION
Filed: May 1, 2001	)	
For: HIGH-FREQUENCY CERAMIC PACKAGE	)	

This is a decision on the petition filed on August 13, 2002, and supplemented on August 15, 2002, via facsimile transmission, to reset the period for reply to an Office action due to late receipt of the action.

The petition is **granted**.

Petitioner states the date of receipt of an Office action at the correspondence address was August 9, 2002. The petition includes a copy of the cover sheet of the Office action mailed on June 19, 2002, having a date of receipt by petitioner of "AUG - 9 2002" stamped thereon.

Petitions to reset the period for reply to an Office action due to late receipt of the action are treated in section 710.06 of the Manual for Patent Examining Procedure (MPEP). As set forth in MPEP § 710.06, a petition to restart the previously set period for reply should be filed within two weeks of the date of receipt of the Office action at the correspondence address. The petition was filed within two weeks of receipt of the Office action and, thus, was timely filed.

Accordingly, the shortened statutory period that was originally set forth in the Office action mailed on June 19, 2002, is hereby reset to run FROM THE RECEIPT DATE OF August 9, 2002.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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

COPY MAILED

MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Richard W. Arnold et al.
Application No. 09/845,344
Filed: May 1, 2001
Attorney Docket Number: TI-27698.1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 22, 2001, for failure to timely reply to the Notice to File Corrected Application Papers mailed on May 21, 2001, 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. Accordingly, a Notice of Abandonment was mailed February 6, 2004.

Receipt of the substitute drawings submitted to comply with 37 CFR 1.84 is acknowledged.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Platon N. Mandros
BURNS, DOANE, SWECKER &
MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

COPY MAILED
JUL 10 2006
OFFICE OF PETITIONS

In re Application of	:	
Hirotomo Ishii	:	DECISION ON
Application No. 09/845,349	:	PETITION
Filed: May 1, 2001	:	
Atty Docket No. 018775-827	:	

This is a decision on the PETITION UNDER RULE 183 TO WAIVE A REQUIREMENT OF THE RULES filed January 30, 2006.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not permitted. See 1.181(f).

Petitioner states that on November 14, 2005, they filed a Request for Continued Examination (RCE) with a Request for a Limited Suspension of Action under 37 CFR § 1.103(c) as their submission pursuant to 37 CFR § 1.114. Petitioner further states that since that filing they have learned that such a submission is improper. Petitioners submit on petition a submission and request that the Office retroactively waive the requirement of 37 CFR 1.114(a) that the submission be filed with the RCE.

37 CFR § 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on

> petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Pursuant to 37 CFR § 1.114(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.

Further, as stated in MPEP 706.07(h), and as reiterated by petitioner, a request for a suspension of action, an appeal brief or a reply brief (or related papers) will not be considered a submission under 37 CFR 1.114. See 37 CFR 1.103 and 1.114(d). However, as petitioner does not acknowledge, this section further provides that a previously filed amendment after final (whether or not entered) may satisfy this submission requirement. Moreover, this section provides that arguments submitted after final rejection, which were entered by the examiner but not found persuasive, may satisfy the submission requirement if such arguments are responsive within the meaning of 37 CFR 1.111 to the Office action. Consideration of whether any submission is responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action is done without factoring in the "final" status of such outstanding Office action. Thus, a reply which might not be acceptable as a reply under 37 CFR 1.113 when the application is under a final rejection may be acceptable as a reply under 37 CFR 1.111.

The record has been reviewed in light of the aforementioned rules and it has been determined that waiver of the rules is not required. Specifically, the RCE filed November 14, 2005 was filed with both a Request for Limited Suspension of Action and a request that the Office consider the amendment under 37 CFR § 1.116 previously filed September 8, 2005. As provided for in the rules, the previously filed amendment is a proper submission under 37 CFR § 1.114(c). Thus, the requested waiver of the rules is not necessary. Accordingly, the petition is dismissed.

Receipt of the petition fee is acknowledged.

Technology Center AU 2623 has been advised of this decision. The application is, thereby, returned to the TC for action following the request for suspension of action under § 1.103(c) and RCE filed November 14, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC95
DEC 1 6 2003
PATENT & TRADEMARK OFFICE

Paper No.

COPY MAILED

JUL 2 8 2003

OFFICE OF PETITIONS

TED R. RITTMASTER
FOLEY & LARDNER
2029 CENTURY PARK EAST - SUITE 3500
LOS ANGELES, CA 90067-3021

In re Application of
Kiyoshi Yoshino et al
Application No. 09/845,368
Filed: April 30, 2001
Attorney Docket No. 230980.0235

ON PETITION

This is a decision on the petition, filed July 25, 2003, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissi ner for Patents
United States Patent and Trademark Office
P. O. B x 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE JC95
DEC 1 6 2003
PATENT & TRADEMARK OFFICE

Paper No. _____

Date : July 28, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/845,368

Applicant(s) : Kiyoshi Yoshino et al
Application No. : 09/845,368
Filed : April 30, 2001

The above-identified application has been assigned Patent No. 6,600,099 and an issue date of July 29, 2003.

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

Do not refund the issue fee.

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

"All reference to Patent No. 6,600,099 to Kiyoshi Yoshino et al of Japan for ELECTRONIC PERCUSSION INSTRUMENTAL SYSTEM AND PERCUSSION DETECTING APPARATUS THEREIN appearing in the Official Gazette of July 29, 2003 should be deleted since no patent was granted."

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

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

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

Lerner and Greenberg
Patent Attorneys
PO Box 2480
Hollywood, FL 33022-2480

COPY MAILED

OCT 1 2 2001

OFFICE OF PETITIONS

In re Application of
Gerhard Beitel et al.
Application No. 09/845,405
Filed: April 30, 2001
For: Method for Removing Structures

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed August 24, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

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

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

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

After the mailing of this decision, the file will be forwarded to 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
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of
Yao-Min Lin
Application No. 09/845,434
Filed: April 30, 2001
For: **APPARATUS AND METHOD FOR ENHANCING IMAGE RESOLUTION BY POSITION PERFURBATION MODULATION**

DECISION ON PETITION TO REMAIL OFFICE ACTION

This is a decision on the request for new action filed on September 7, 2004, due to the allegation that the action should have web-posted references in August 2004.

Petitioner contends that the Office action mailed August 24, 2004, should have web-posted references in August 2004. Thus implying that there was an error in the Office action or on the part of the Office. Petitioner provided alleged evidence showing that the references were not available in the form of a copy of Patent Application Information Retrieval screen from August 27, 2004.

A review of the file record reveals that this application was not associated with a customer number. The transmittal letter from April 30, 2001, does not reveal that the application was associated with a customer number. Therefore, in accordance with the Office's Electronic Business Center, the documents cited in an Office action would not have been viewable via the e-Patent system if the application were not associated with a customer number.

The OG Notice dated May 18, 2004 regarding the E-Patent Reference System, states in part: "In order to use the new E-Patent Reference feature applicants must:...(3) properly associate patent applications with the customer number. Alternatively, copies of all U.S. patents and U.S. patent application publications can be accessed without a digital certificate from the USPTO web site, from the USPTO Office of Public Records, and from commercial sources."

Therefore, Petitioner has failed to provide sufficient evidence to warrant re-mailing the Office action originally mailed August 24, 2004 and restarting the time period for response.

The petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration. This period is not extendable under 37 CFR § 1.136(a). The telephone number for the Patent Electronic Business Center Customer Service office is 866-217-9197.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dennis S. Fernandez
FERNANDEZ & ASSOCIATES LLP
P. O. Box D
Menlo Park, CA 94026-6402

MAILED
JUN 0 5 2005
Technology Center 2100

In re Application of:
Mark M. Ishikawa et al.
Application No. 09/845,436
Filed: May 12, 2004
For: IDENTIFICATION AND TRACKING OF DIGITAL CONTENT DISTRIBUTORS ON WIDE AREA NETWORKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 09, 2005.

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

The request filed May 09, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: ORRICK, HERRINGTON & SUTCLIFFE, LLP
1020 Marsh Road
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

DEC 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 3

FERNANDEZ & ASSOCIATES, LLP
Patent Attorneys
P.O. Box D
Menlo, CA 94026-6204

In re Application of
Jonathan C. SALAS, et al
Application No. 09/845,457
Filed: April 30, 2001
For: SYSTEM AND METHOD FOR MANAGING USER ACCESS OF DISTRIBUTED RESOURCES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 1, 2003.

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

The request is **GRANTED**.

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

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

cc: John J. Bruckner
GRAY CARY WARE & FREIDENRICH LLP
1221 South MoPac Expressway
Suite 400
Austin, TX 78746-6875

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
09/845,457	04/30/2001	Jonathan C. Salas	MOON-P008

CONFIRMATION NO. 3019
OC000000011458435
OC000000011458435

FERNANDEZ & ASSOCIATES, LLP
PATENT ATTORNEYS
PO BOX D
MENLO PARK, CA 94026-6204

Date Mailed: 12/10/2003

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/01/2003.

1 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.

JEANNINE S MINES
2100 (703) 306-5484

OFFICE 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

MAIL

OCT 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fernandez & Associates, LLP
Patent Attorneys
PO Box D
Menlo Park, CA 94026-6204

In re Application of:
Jonathan SALAS, et al.
Application No. 09/845,457
Filed: April 30, 2001
For: SYSTEM AND METHOD FOR MANAGING USER ACCESS OF DISTRIBUTED RESOURCES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed July 30, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on October 3, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed John J. Bruckner as the attorney of record of the instant application. The Power of Attorney of October 3, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by John J. Bruckner, et al.

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

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

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

cc: John Bruckner, P.C.
5708 Back Bay Lane
Austin, TX 78739

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN BRUCKNER, P.C.
P.O. BOX 490
FLAGSTAFF AZ 86002

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Salas et al.	:	DECISION ON PETITION
Application No. 09/845,457	:	TO WITHDRAW
Filed: April 30, 2001	:	FROM RECORD
Attorney Docket No. 03226/795001;	:	
SUN0606205		

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2006 and October 31, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 38396 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

In re Application of	:	AUG 21 2008
HOOD, GEORGE ROBERT	:	
Application No. 09/845,461	:	**DECISION ON PETITION**
Filed: April 30, 2001	:	
Attorney Docket No. 9522	:	

This is a decision on the Petition To Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on July 21, 2008 for the above identified application.

The application was held abandoned for applicant's failure to timely pay the issue fee, as Required in the new Notice of Allowance and Fee(s) Due mailed March 12, 2008.

The petition is **DISMISSED.** Any request for reconsideration of the 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 ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THE STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment Of the application.

As previously advised the applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

COPY MAILED

FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of :
George R. **HOOD** :
Application No. 09/845,461 :
Filed: April 30, 2001 :
Attorney Docket No. **9522** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2008. Accordingly, the date of abandonment of this application is June 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Tarolli, Sundheim, Covell & Tummino L.L.P.
Cisco Systems, Inc.
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114

Mail Date: 06/03/2010

Applicant	: James A. Bisher JR.	: DECISION ON REQUEST FOR
Patent Number	: 7627887	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/845,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1819** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-06

Paper No: __

COPY MAILED
SEP 1 1 2006
OFFICE OF PETITIONS

MUELLER AND SMITH, LPA
MUELLER-SMITH BUILDING
7700 RIVERS EDGE DRIVE
COLUMBUS OH 43235

In re Application of	:	
Vellante et al.	:	
Application No. 09/845,539	:	DECISION
Filing Date: 30 April, 2001	:	
Attorney Docket No.: ITC 2-001	:	

This is a decision on the petition filed on 26 June, 2006, under 37 C.F.R. §1.183, and §1.47.

For the reasons set forth below, the petition under 37 C.F.R. §1.183 is **DISMISSED**, and the petition as considered under 37 C.F.R. §1.47 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- the instant application was filed in April 2001, and through prosecution the Examiner has required a supplemental and corrected oath/declaration to eliminate an oversight of Petitioner as to the identification of a priority claim–to this end, Petitioner avers that, while co-inventors Vellante and Floyer (misidentified in the petition as "Flowers") have executed the supplemental oath/declaration, co-inventor Edward Gershenson (Mr. Gershenson) has not signed the oath/declaration;

- Petitioner's suggested resolution is that the Office waive the requirement for the signature of the non-signing inventor, notwithstanding the fact that Petitioner has made absolutely no showing whatsoever as to the basis for her averment;

Petitioner fails to demonstrate even that the entire application (description, claims, abstract and drawings) were sent to Mr. Gershenson, as required by statute, regulation and the commentary set forth in the Manual of Patent Examining Procedure (MPEP).

Moreover, it is unclear from the materials filed as to the diligence of the search made to ensure reasonable representation that the address used/provided as those last known to be valid.

Having failed to file a fully executed declaration, Petitioner contends that the Office should waive under 37 C.F.R. §1.183[1] the Rules of Practice without an adequate showing of diligence as to ascertaining the proper/accurate/current/reasonably-stated-as-the-last-known residence for the absent co-inventor, or the effort to present the entire application–description, claims, abstract and drawings–to the alleged non-signing inventor.

Petitioner's failure to act in compliance with statute(s) and regulation(s) creates no "extraordinary situation" requiring the invocation of the interests of justice.

The Office should not relax the requirements of established practice, even if authorized and empowered to do so, in order to save applicants from the consequence(s) of their own choices.[2]

Petitioners's failure or inadvertence is not ground for requesting waiver of the regulations.[3]

---

[1] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

[2] See: Ex Parte Sassin, 1906 Dec. Comm'r Pat. 205, 206 (Comm'r Pat. 1994); Cf: Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968), and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975).

[3] See: In re Kabushidi Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

Therefore, there is no adequate showing of an "extraordinary situation" in which "justice requires" suspension of the regulations and Petitioner seeks a waiver pursuant to 37 C.F.R. §1.183[4] that is at this writing neither justified nor permitted.

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.[5]

---

[4] Delay resulting from the inadvertence or mistake of Petitioner does not warrant equitable tolling of the time period of 37 C.F.R. §1.193(b). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Even assuming *arguendo*, that clerical inadvertence or error caused or contributed to the delay in filing the Reply Brief, such is not a ground for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

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

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

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

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

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

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

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

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

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

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

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

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) &

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) 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 nonsigning 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(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> > (1)Identify the application to which it is directed;
> >
> > (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
> >
> > (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in §1.56.

It appeared from the outset that Petitioner was submitting a wholly unsigned oath/declaration. The commentary at MPEP §409.03(b) provides that, where no inventors are available to sign:

> **409.03(b) No Inventor Available**
>
> Filing under 37 C.F.R. 1.47(b) and 35 U.S.C. 118 is permitted only when no

---

(b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "can-not be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 C.F.R. 1.47(a) is available, application cannot be made under 37 C.F.R. 1.47(b).

In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited pursuant to 37 C.F.R. 1.47(b) must meet the following requirements:

(A) The 37 C.F.R. 1.47(b) applicant must make the oath required by 37 C.F.R. 1.63 and 1.64 or 1.175. Where a corporation is the 37 C.F.R. 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 C.F.R. 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 C.F.R. 1.47(b).

(B) The 37 C.F.R. 1.47(b) applicant must state his or her relationship to the inventor as required by 37 C.F.R. 1.64.

(C) The application must be accompanied by proof that the inventor (1) cannot be found or reached after a diligent effort or (2) refuses to execute the application papers. See MPEP §409.03(d).

(D) The last known address of the inventor must be stated. See MPEP §409.03(e).

(E) The 37 C.F.R. 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. See MPEP §409.03(f).

(F) The 37 C.F.R. 1.47(b) applicant must prove that the filing of the application is necessary (1) to pre-serve the rights of the parties or (2) to prevent irreparable damage. See MPEP §409.03(g).

Thus, a registered practitioner signing on behalf of the assignee, must state affirmatively that the practitioner is authorized to so sign. (MPEP §409.03(b)).

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

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. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof 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, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §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.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[6])

CONCLUSION

Petitioner's attention is directed to the item(s) set forth in the background as that/those to be addressed in any renewed petition–to wit: at least a petition, Petitioner's own representation(s) before the Office, and any transmittal/cover letter evidencing the transmittal of the entire application to the non-signing inventor for review before having the opportunity to sign the oath/declaration.

Accordingly, the petition under 37 C.F.R. §1.183 is **dismissed**, and, Petitioner having made no showing in support, and the petition as considered under 37 C.F.R. §1.47 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[7]

---

[6] See: MPEP 409.03(b).

[7] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

> When it is concluded by the 37 C.F.R. §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.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[6])

CONCLUSION

Petitioner's attention is directed to the item(s) set forth in the background as that/those to be addressed in any renewed petition–to wit: a petition, Petitioner's own representation(s) before the Office, and any transmittal/cover letter evidencing the transmittal of the entire application to the non-signing inventor for review before having the opportunity to sign the oath/declaration.

Accordingly, the petition under 37 C.F.R. §1.183 is **dismissed**, and, Petitioner having made no showing in support, and the petition as considered under 37 C.F.R. §1.47 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[7]

---

[6] See: MPEP 409.03(b).

[7] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

By mail: Commissioner for Patents[8]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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[9]) 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/Caller's action(s).

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

---

[8] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[9] 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

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

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

COPY MAILED

NOV 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Lee D. Whetsel	:	
Application No. 09/845,562	:	DECISION ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. TI-32106	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely reply to the Notice of Non-Compliant Amendment, mailed April 4, 2006, which set a one month extendable period for reply. On July 17, 2006, the Office received a three month extension of time fee of $1,020, a request for continued examination (RCE) under 37 CFR 1.114, and the $790 filing fee for the RCE. A Notice of Abandonment was mailed on March 2, 2007 holding the application abandoned "because applicant can not switch the original claims invention to new claims invention by filing RCE under 37 CFR 1.114." Accordingly, the date of abandonment of this application is August 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b) (assigned Application No. 11/695,928, filed April 3, 2007); (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a divisional application, this will be construed as a

request to expressly abandon this application in favor of the granting of a filing date to the continuing application. Accordingly, this application is revived solely for the purpose of continuity with continuing Application No. 11/695,928, filed April 3, 2007. As continuity has been established by the revival of this application, this application is again abandoned in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

As the filing of an RCE on July 17, 2006 was improper for the reasons stated in the Notice mailed December 7, 2006, and, as requested, the $790 filing fee for the RCE will be credited to petitioner's deposit account in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

COPY MAILED

NOV 2 5 2008

OFFICE OF PETITIONS

In re Patent No. 6,749,414 :
Issue Date: June 15, 2004 :
Application No. 09/845,566 : DECISION ON PETITION
Filed: April 30, 2001 :
Attorney Docket No. **S697.12-0051** :

This is a decision on the petition under 37 CFR 1.378(c), filed September 22, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on June 15, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **BRIAN R. MORRISON**
900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS MN 55402-3319

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

Docket Number (Optional) S697.12-0051

RECEIVED
CENTRAL FAX CENTER
SEP 2 2 2008

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax (571) 273-8300

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

Patent No. 6,749,414 Application Number 09/845,568

Issue Date June 15, 2004 Filing Date April 30, 2001

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

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date ; _____
original application number _____.
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

09/25/2008 DALLEN 00000019 6749414

01 FC:255 465.00 OP
02 FC:1558 1640.00 OP

RECEIVED
SEP 3 0 2008
OFFICE OF PETITIONS

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. 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Attorney/Agent
Choate, Hall & Stewart
53 State Street
Exchange Place
Boston, MA 02109

COPY MAILED

APR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Yves Schabes et al.	:	
Application No. 09/845,571	:	DECISION ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. TGS-00201	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 26, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on May 27, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on November 19, 2007.

As authorized, the Request for Continued Examination fee of $405 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE, with the fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to the Technology Center AU 2164 for appropriate action in the normal course of business for processing of the RCE received December 17, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Sam Pasternack
Choate, Hall & Stewart
2 International Place
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

COPY MAILED
NOV 18 2008

In re Application of	:	
Yves SCHABES, et al	:	
Application No. 09/845,571	:	DECISION ON PETITION
Filed: April 30, 2001	:	TO WITHDRAW
Attorney Docket No. 401122.0005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2008.

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

A review of the file record indicates that the power of attorney to Choate, Hall & Stewart LLP, has been revoked by the applicant of the patent application on July 18, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: YVES SCHABES
71 DRUMLIN ROAD
NEWTON, MA 02459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLOCK TOWER LAW GROUP
2 CLOCK TOWER PLACE, SUITE 255
MAYNARD MA 01754-2545

COPY MAILED
APR 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
John H. Lambert et al	:	
Application No. 09/845,575	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 2002635-0002	:	

This is a decision on the petition, filed April 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 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]

Further, petitioner should be aware that each paper with a subject matter should be filed separately. See 37 CFR 1.4(c).

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

The examiner of Technology Center AU 2176 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

COPY MAILED

JUL 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Lambert, et al. :
Application No. 09/845,575 : ON PETITION
Filed: April 30, 2001 :
Attorney Docket No. 66703-0001 :
For: METHOD & SYSTEM FOR
ENHANCED WEB PAGE DELIVERY

This is a decision on the petition under 37 CFR 1.181, filed February 14, 2007, to withdraw the holding of abandonment of the above-identified application. In the alternative, petitioners request consideration under 37 CFR 1.137(b).

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

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

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed April 26, 2006, which set a three month period for reply. This application became abandoned on July 27, 2006. A Notice of Abandonment was mailed on December 26, 2006.

Petitioners request withdrawal of the holding of abandonment because on applicants on July 6, 2006 allegedly submitted a PTOL-85B. Unfortunately, the correspondence is not part of the official application file and petitioners have provided no evidence of the correspondence's July 6, 2006 filing. Petitioners are reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985).

As stated in the April 26, 2006 Notice of Allowance and Fee(s) Due, "... THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR

AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEES ARE DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED."

The application did become abandoned three months after April 26, 2006, on July 27, 2006, for failure to submit a PTOL-85B or its equivalent.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Petitioners next request consideration under 37 CFR 1.137(b).

It is noted that as of July 21, 2006, applicants are no longer claiming small entity status. As such, the large entity issue fee is due. Deposit account no. 50-3553 will be charged the $700.00 balance due.

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 full $1,400.00 issue fee and a completed PTOL-85B or its equivalent (Petitioners re-submitted the PTOL-85B previously filed on January 30, 2006. While this PTOL-85B is not a completed version of the one attached to the April 26, 2006 Notice of Allowance and Fee(s) Due, the information contained therein is deemed to be equivalent to the information that would be found on the PTOL-85B attached to the April 26, 2006 Notice of Allowance), (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: CLOCK TOWER LAW GROUP
2 CLOCK TOWER PLACE, SUITE 255
MAYNARD, MA 01754

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

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

COPY MAILED

OCT 0 4 2001

OFFICE OF PETITIONS

In re Application of
Jody Francis Powlette
Application No. 09/845,595
Filed: April 30, 2001
Attorney Docket No. PROP 98-001C

DECISION ON PETITION

This is a decision on the petition filed July 18, 2001, requesting, in effect, that a "Notice" mailed May 16, 2001 be withdrawn.

Application papers in the above-identified application were filed on April 30, 2001. However, on May 16, 2001, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 40 of the specification appeared to have been omitted.

In response, on July 18, 2001, applicant filed the present petition with page 40. Applicant asserted that page 40 was included as part of the original disclosure for the parent application, application No. 09/172,191. As proof thereof, applicant included a postcard receipt for the parent application, indicating receipt of 101 total pages of specification. Furthermore, applicant asserted that the above-identified application incorporated the original disclosure of the parent application by reference.

Applicant also points out that page 40 of the parent application was canceled in favor of a microfiche appendix filed in the parent application on April 25, 2001. Lastly, applicant contends that page 40 has already been deposited in the above-identified application because "applicant is entitled to rely on the parent application filing materials, as well as the microfiche submission provided in the parent application."

A review of the record reveals that page 40 of the specification was not filed with the above identified application on April 30, 2001.

Accordingly, the petition is **DISMISSED**.

Page 40, submitted as part of the original disclosure of the parent application, will not be entered at this time. However, because the parent application disclosure was incorporated by reference in the above-identified application, applicant may submit page 40 (or the corresponding microfiche sheet frame) as an amendment to be considered by the examiner. Page 40 will not be considered to constitute "new matter" if the page was present in the original disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 30, 2001, using the specification pages submitted on that date.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

LAWRENCE BERKELEY
NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Tomsia, et al.	:	
Application No. 09/845,597	:	ON PETITION
Filed: 30 April, 2001	:	
Attorney Docket No. 1B-1627	:	

This is a decision on a petition filed on 27 April, 2006, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 18 July, 2005, with reply due absent extension of time on or before 18 August, 2005;
- the instant application went abandoned by operation of law after midnight 18 August, 2005;
- Petitioner filed an Appeal Brief on 28 November, 2005;
- the Office mailed a Notice of Dismissal of Appeal on 28 March, 2006, for failure to satisfy the 18 July, 2005, Notice;

- Petitioner filed the instant petition on 27 April, 2006, with fee, reply in the form of request for continued examination, fee and submission under 37 C.F.R. §1.114,[1] and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

---

[1] Petitioner has submitted arguments set forth in an Appeal Brief, see: the commentary at MPEP §706.07(h)II, which provides in pertinent part:

* * *

II. SUBMISSION REQUIREMENT

A "submission" as used in 37 C.F.R. 1.114 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. See 37 C.F.R. 1.114(c). If a reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of 37 C.F.R. 1.111. See 37 C.F.R. 1.114(c). Thus, an applicant may file a submission under 37 C.F.R. 1.114 containing only an information disclosure statement (37 C.F.R. 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151, but not in an application where the last Office action is a final rejection or an Office action under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), or in an application that is under appeal. A request for a suspension of action, an appeal brief or a reply brief (or related papers) will not be considered a submission under 37 C.F.R. 1.114. See 37 C.F.R. 1.103 and 1.114(d). The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief, or may simply consist of a statement that incorporates by reference the arguments in a previously filed appeal brief or reply brief. In addition, a previously filed amendment after final (whether or not entered) may satisfy this submission requirement.

Arguments submitted after final rejection, which were entered by the examiner but not found persuasive, may satisfy the submission requirement if such arguments are responsive within the meaning of 37 C.F.R. 1.111 to the Office action. Consideration of whether any submission is responsive within the meaning of 37 C.F.R. 1.111 to the last outstanding Office action is done without factoring in the "final" status of such outstanding Office action. Thus, a reply which might not be acceptable as a reply under 37 C.F.R. 1.113 when the application is under a final rejection may be acceptable as a reply under 37 C.F.R. 1.111.

* * *

[2] 35 U.S.C. §133 provides:

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

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1700 for further processing in due course.

---

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

gm

Mailed : 2-7-07

In re Application of	:	DECISION
Tomsia et al.	:	DISMISSING
Serial No. 09/845,597	:	PETITION
Filed: April 30, 2001	:	
For: Glass/Ceramic Coatings for Implants	:	

This is a decision on the December 07, 2006, "Petition under 37 CFR 1.181(a)(1)" requesting that the denial of applicant's priority claim to 60/201,556 be rescinded.

The petition is before the Director of Technology Center 1700 for consideration.

The petition is **DISMISSED** for the reasons below.

DECISION

A final Office action was mailed on September 27, 2006, which rejected all the pending claims over a variety of references. The rejections are based at least in part on the examiner's position that the instant application is not entitled to the filing date of the provisional application (60/201,556) from which priority is claimed. Applicant filed the instant petition on December 7, 2006, requesting review of the examiner's denial of this priority claim.

As stated in MPEP 1201, "the line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed." The MPEP (1201) explains:

> The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. *Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits*, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

> The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is matter appealable to the Board

In the instant case, the examiner's denial of applicant's priority claim leads directly to the resulting denial of the pending patent claims over the prior art. The matter is thus squarely within the purview of the Board.

As the matter raised by petitioner is essentially a patentability issue within the jurisdiction of the Board, the instant petition is necessarily **DISMISSED** as directed to an appealable matter.

Jacqueline M. Stone

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

LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

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

James E. Parsons
Skjerven Morrill MacPherson
25 Metro Drive, Suite 700
San Jose, CA 95110-1349

COPY MAILED

OCT 2 9 2001

OFFICE OF PETITIONS

In re Application of
Byung Hoon Ahn et al.
Application No. 09/845,601
Filed: April 26, 2001
For: Leadframe and Semiconductor Package Made Using the Leadframe

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the papers filed August 2, 2001, requesting that the above-identified application be accorded a filing date of April 26, 2001, rather than the presently accorded filing date of April 27, 2001. The request is properly being treated as a petition under 37 CFR 1.10(c). This is also a decision in response to the "Petition Under 37 CFR 1.47(a)," filed August 29, 2001.

The petition under 37 CFR 1.10(c) is granted.

The petition under 37 CFR 1.47(a) is dismissed.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 26, 2001, pursuant to the requirements of 37 CFR 1.10. In support , applicants provide a copy of the receipt for Express Mail label No. EL710212794US, the same Express Mail label number which appears on the original application transmittal letter. In addition, it is noted that the Express mail receipt includes a "San Jose, CA, USPS" receipt stamp date of "April 26, 2001".

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 26, 2001.

As to the petition under 37 CFR 1.47(a):

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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; (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), Rule 47 applicant failed to show or provide proof that inventors Byung Hoon Ahn and Jae Hun Ku have refused to sign the declaration. Before an inventor can refuse to sign an oath or declaration, a complete copy of the application papers (specification, claims and drawings and oath or declaration) must have been presented. While a copy of a letter dated May 25, 2001 has been submitted as evidence in support of the petition, the letter does not give an indication that the complete application was presented to the nonsigning inventors and no additional evidence has been submitted showing that the inventors were presented with a complete copy of the application papers. Did the nonsigning inventors receive a complete copy of the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a complete copy of the application papers was presented to the nonsigning inventors, but that they did not respond to the request to sign the oath or declaration in order to show that the nonsigning inventors have refused to join in the application. A complete copy of the application papers should be sent to the last known addresses of the non-signing inventors or the attorneys representing the nonsigning inventors, return receipt requested, with a request that they sign the declaration for the patent application and setting a deadline with a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and must be supported by documented evidence, such as copies of returned mail receipt showing proof of service, cover letter of instructions, telegraphs, E-mail, etc. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact along with the time and place of the refusal must be stated in 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.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

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

By mail: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

The application file is being retained in the Office of Petitions to await a decision on the petition under 37 CFR 1.47(a), afterwards the file will be forwarded to the Office of Initial Patent Examination for processing with a filing date of April 26, 2001 and for mailing of a corrected Filing Receipt.

Telephone inquiries related to 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

JAMES E. PARSONS
SKJERVEN MORRILL MacPHERSON LLP
SUITE 700
25 METRO DRIVE
SAN JOSE CA 95110-1349

COPY MAILED

MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of
Ahn, Ku, Chung, Ko, Jang, Choi & Do
Application No. 09/845,601
Filed: April 26, 2001
Attorney Docket No. AB-1134 US
For: LEAD FRAME AND SEMICONDUCTOR PACKAGE MADE USING THE LEADFRAME

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed December 10, 2001.

The petition is granted.

Petitioners have shown that the non-signing inventors, Byung Hoon Ahn and Jae Hun Ku, have refused to join in the filing of the above-identified application after having the opportunity to review the application papers. Specifically, the declarations of Axel Chan and Lynn Tok Kwee Hoon establish that the representative of the inventors was given the application papers, including the specification, claims and drawings. Despite numerous attempts on the part of petitioners to gain the inventors' cooperation, the inventors failed to respond to the request that they sign the declaration. In addition, 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 returned to the Office of Initial Patent Examination for further processing. Thereafter, the file will be forwarded to Technology Center 2800 for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

THE LAW OFFICE OF KIRK D. WILLIAMS
1234 S. OGDEN ST.
DENVER, CO 80210

COPY MAILED

MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of Michaeli, et al. Application No. 09/845,606 Filed: April 28, 2001 Attorney Docket No.: 63131 For: METHOD AND APPARATUS FOR A DATA STRUCTURE COMPRISING A HIERARCHY OF QUEUES OR LINKED LIST DATA STRUCTURES	:	ON PETITION

This decision is in response to the petition to correct filing date, filed April 26, 2002. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-referenced application a filing date of April 28, 2001 instead of April 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on April 28, 2001. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing tracking number EL759042781US (the same Express Mail number found on the transmittal letter accompanying the original application papers located in the official file) and a "date-in" of April 28, 2001.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is due in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for correction of the filing date to April 28, 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

Alesia M. Brown
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

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

Mail Date: 04/21/2010

Applicant	: Amir Michaeli	: DECISION ON REQUEST FOR
Patent Number	: 7627870	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/845,606	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1270** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

COPY MAILED
OCT 14 2005
OFFICE OF PETITIONS

In re	:
McKinzie III, et al.	: DECISION REGARDING
Application No. 09/845,666	: PATENT TERM ADJUSTMENT
Filed: May 24, 2005	:
Patent No. 6,897,831	:
Issued: May 24, 2005	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT", filed June 22, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On August 12, 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 was zero (0) days. On May 24, 2005, the application issued into Patent No. 6,897,831 with a patent term adjustment of one hundred twenty-two (122) days. Patentees submitted the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" on June 22, 5005. Patentees state that they believes there was an error their favor in the patent term adjustment calculation.

The Office determined a patent term adjustment of one hundred twenty-two (122) days based on an adjustment for PTO delay of sixty-one (61) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and three hundred twenty-eight (328) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.703(b), reduced by seventy-two (72), ninety-five (95), four (4), ninety-three (93), and three (3) days of applicant delay, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the application does not reveal any errors in the calculation of the patent term adjustment.

It is noted that applicants filed a terminal disclaimer on March 29, 2004. The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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

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

UNITED STATES 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 13 2006

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

In re application of	:	**DECISION ON PETITION**
Brian James Clark et al.	:	**TO MAKE SPECIAL**
Application No. 09/845,669	:	**(ACCELERATED**
Filed: April 30, 2001	:	**EXAMINATION)**
For: MAXIMIZATION OF A HEDGED INVESTMENT	:	
BUDGET FOR AN INDEX-LINKED	:	
INSURANCE PRODUCT	:	

This is in response to the petition filed on December 12, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (C) above. Regarding item (C), the petition states: "The Applicants have conducted a pre-examination search using the services of Terry W. Kramer, Esq. of Kramer & Associates. A copy of Mr. Kramer's letter is attached to this Petition as Exhibit 1, and incorporated herein by reference. Mr. Kramer's letter sets forth the search field, including the classes and subclasses (U.S. and foreign) ..... " However, there is no Exhibit 1 attached.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

SNM/dew: 12/21/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE
APR 17 2006
TECHNOLOGY CENTER 3600

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

In re application of Brian James Clark et al. Application No. 09/845,669 Filed: April 30, 2001 For: MAXIMIZATION OF A HEDGED INVESTMENT BUDGET FOR AN INDEX-LINKED INSURANCE PRODUCT	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on February 8, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

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

KJD/dew: 04/11/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

GERALD R. BLACK, ESQ.
30590 SOUTHFIELD ROAD, SUITE 160
SOUTHFIELD, MI 48076

COPY MAILED

JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Anderson, Timothy
Application No. 09/845,679
Filed: April 30, 2001
For: Roll-Up Door Assembly

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 4, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed October 7, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 8, 2003. A Notice of Abandonment was mailed on May 7, 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 3600 for further examination on the merits.

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

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

COPY MAILED

MAY 28 2009

OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of Challenger et al. :
Application No. 09/845,708 :
Filing Date: April 30, 2001 :
Attorney Docket No. YOR920010281US1 :

Decision on Petition

This is a decision on the petition filed March 23, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a final Office action on April 23, 2008. The Office did not receive a reply to the Office action or a request for an extension of time. The Office action set a three (3) month shortened statutory period for reply. As a result, the application became abandoned on July 24, 2008. The Office mailed a Notice of Abandonment on January 23, 2009.

The instant petition was filed March 23, 2009, and alleges non-receipt of the April 23, 2008 Office action.

MPEP 711.03(c)(I)(A) states, with emphasis added,

> [A]n 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....
>
> 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 <u>three month period for reply</u> was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date <u>three months from the mail date of the nonreceived Office action</u> must be submitted as documentary proof of nonreceipt of the Office action.

In the instant case, petitioner has supplied a copy of part of the master docket. However, the portion of the master docket supplied covers matters docketed for *June* 23, 2009, not July 23, 2009.

A copy of the master docket showing all items due on July 23, 2009, should be supplied.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 01 2009

OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of Challenger et al. :
Application No. 09/845,708 :
Filing Date: April 30, 2001 :
Attorney Docket No. YOR920010281US1 :

Decision on Petition

This is a decision on the petition filed July 17, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on April 23, 2008. The Office did not receive a reply to the Office action or a request for an extension of time. The Office action set a three (3) month shortened statutory period for reply. As a result, the application became abandoned on July 24, 2008. The Office mailed a Notice of Abandonment on January 23, 2009.

Petitioner has alleged non-receipt of the April 23, 2008 Office action. A review of the record indicates petitioner has supplied sufficient evidence to establish non-receipt of the Office action.

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

Although the petition is accompanied by an amendment under 37 CFR 1.116, the petition requests "the period for reply to the Final Office action be reset." The undersigned spoke with attorney Nathaniel Wallace on November 20, 2009, and confirmed petitioner wishes for the Office to remail the final Office action and reset the time period for reply.

Technology Center Art Unit 2178 will be informed of the instant decision. Thereafter, the Technology Center will mail a new final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Bergman et al. :
Application No. 09/845,712 : ON PETITION
Filing or 371(c) Date 05/01/2001 :
Attorney Docket Number: 1420.002US1 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 18, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 10, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 11, 2006. A Notice of Abandonment was mailed August 17, 2006.

Applicant has submitted the issue fee with the instant petition.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN
2855 PGA BLVD.
PALM BEACH GARDENS, FL 33410

COPY MAILED

SEP 28 2005

OFFICE OF PETITIONS

In re Application of :
George JACKOWSKI et al. :
Application No. 09/845,715 :
Filed: April 30, 2001 :
Attorney Docket No. 2132.030 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 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 14, 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 15, 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, Request for Continued Examination, and the $395 filing fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the RCE and reply to the non-final Office action of November 14, 2003 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 1631 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH, GARDENS FL 33410

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Jackowski et al. :
Application No. 09/845,726 :
Filed: April 30, 2001 :
Attorney Docket Number: :
2132.033 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 30, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 10, 2003. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 11, 2003. A Notice of Abandonment was mailed on April 19, 2004.

Petitioner has filed an amendment in response to the Office action with the petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1641 for processing of the response in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
George Jackowski, et al. :
Application No. 09/845,731 : ON PETITION
Filed: April 30, 2001 :
Attorney Docket No. 2132.029 :

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

This application became abandoned for failure to timely reply to the final Office action mailed October 29, 2003. A Notice of Abandonment was mailed on July 26, 2004.

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

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1631, for further processing of the request for continued examination under 37 CFR 1.114 filed April 4, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,737	04/30/2001	Brian T. Murren	GE1-006US	3462

21718 7590 01/10/2008
LEE & HAYES PLLC
SUITE 500
421 W RIVERSIDE
SPOKANE, WA 99201

EXAMINER
SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
2145	

NOTIFICATION DATE	DELIVERY MODE
01/10/2008	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):

lhpto@leehayes.com

UNITED STATES 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

JAN 10 2008

TECHNOLOGY CENTER 2100

LEE & HAYES PLLC
SUITE 500
421 W RIVERSIDE
SPOKANE WA 99201

In re Application of:
Brian T. MURREN, et al.
Application No. 09/845,737
Filed: April 30, 2001
For: ARCHITECTURE AND PROCESS FOR CREATING SOFTWARE APPLICATIONS FOR MULTIPLE DOMAINS

DECISION ON PETITION TO WITHDRAW THE 37 CFR 1.105 REQUIREMENT FOR INFORMATION

This is a decision on the petition, filed on 04 May 2007, under 37 CFR 1.181 to withdraw the requirement for information under 37 CFR 1.105.

The petition is **DISMISSED AS MOOT**.

Applicant requests to invoke Supervisory Authority to review the examiner's denial of Applicant's for reconsideration as to the following matters (1) Requirement for Information Under 37 CFR 1.105; (2) Requirement for a Substitute Specification; and (3) Objection to the Drawings.

A review of the file history reveals that all above requirements are withdrawn in the Non-Final office action mailed 06 Sep 2007.

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

Any question concerning this decision should be directed to Kim Huynh whose telephone number is 571-272-4147.

The three month shortened statutory period for response set in the Non-Final Office, continues to run from the September 06, 2007 mailing date thereof.

Jeffrey Gaffin, Acting Director
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
www.uspto.gov

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
Jackowski et al. :
Application No.: 09/845,738 :
Filing Date: April 30, 2001 :
Docket No.: 2132.040 :
For: Biopolymer Marker Indicative Of :
Disease State Having A Molecular :
Weight Of 1562 Daltons :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on the Petition Under 37 CFR 1.137(b) filed on September 30, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed September 9, 2003, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on March 9, 2004. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee and made the 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." Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 1641 for continued processing.

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES 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. 25

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

COPY MAILED

JUL 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Jackowski et al.	:	
Application No. 09/845,739	:	ON PETITION
Filed: April 30, 2001	:	
Attorney Docket No. 2134.044	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed September 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 25, 2003. A Notice of Abandonment was mailed May 18, 2004.

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

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

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JOHN F HAYDEN
FISH & RICHARDSON PC
601 THIRTEENTH STREET NW
WASHINGTON DC 20005

COPY MAILED

APR 2 4 2002

OFFICE OF PETITIONS

In re Application of
Stevens, et al.
Application No. 09/845,769
Filed: May 2, 2001
Attorney Docket No. 06998-074001

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 22, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on May 2, 2001, without an executed oath or declaration. Accordingly, on June 22, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. Applicant included a declaration signed by inventors Daniell Stevens, Joel M. Gould, Michael J. Newman, Charles E. Ingold, and Allan Gold, but lacking signatures from inventors Robert Roth, Dean Sturtevant, and David Abrahams.

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 Diana DiBerardino included a declaration from Patri J. Pugliese, in which Pugliese detailed the transmittal of the application papers to non-signing inventors Roth, Sturtevant, and Abrahams. According to Pugliese, no response from Roth, Sturtevant, or Abrahams has been received.

The declaration filed January 22, 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.

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. 7

John P. Ward
c/o Lance A. Termes
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

MAIL

JUL 2 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Parnell et al.	)	
Application No. 09/845,785	)	
Attorney Docket No. 005306.P019	)	**DECISION ON PETITION TO MAKE**
Filed: April 30, 2001	)	**SPECIAL UNDER 37 CFR §1.102(d)**
For: POLYLINGUAL SIMULTANEOUS	)	
SHIPPING OF SOFTWARE	)	

This is a decision on the petition to make special, filed May 12, 2003 under 37 CFR §1.102(d).

The petition is **DISMISSED**.

For purposes of this decision, the petition to make special is assumed to have been filed in accordance with the "Accelerated Examination" provision of MPEP § 708.02, Section VIII.

MPEP § 708.02, Section VIII, sets out the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), as follows:

> (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.
> The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.
> If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.
> If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.
> Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new 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.

The petition complies with items (A), (C) and (D) mentioned above. However, the petition is deficient with respect to items (B) and (E) above:

(B) The petition states that all the claims are directed to a single invention. Even so, there are several independent claims, each having a different scope, and it will be up to the examiner to make such a determination. Applicant has made no provision for the possibility of a restriction requirement by the examiner. Applicant must provide the following statement as a prerequisite to a grant of special status: "If the Office determines that all claims presented are not obviously directed to a single invention, applicant will make an election without traverse and will follow established telephone restriction practice to make such an election if requested to do so."

(E) Applicant has failed to provide a detailed discussion that points out, *with the particularity required by 37 CFR 1.111(b) and (c)*, how the claimed subject matter is patentable over the references deemed most closely related to the subject matter encompassed by the claims.

Therefore, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Petitioner is entitled to one opportunity to perfect the request in a renewed petition to make special. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

BJP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Lance A. Termes
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

In re Application of
Karen P. Parnell, et al.
Application No. 09/845,785
Filed: April 30, 2001
For: **POLYLINGUAL SIMULTANEOUS SHIPPING OF SOFTWARE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 12, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented on September 2, 2003.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1026

COPY MAILED

NOV 30 2006

OFFICE OF PETITIONS

In re Application of	:	
PARNELL, et al.	:	
Application No. 09/845,785	:	DECISION ON PETITION
Filed: April 30, 2001	:	TO WITHDRAW
Attorney Docket No. 005306.P019	:	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 September 1, 2006.

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

A review of the file record indicates that the power of attorney to Marina Portnova of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on September 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Building 4, Suite 201
Austin, Texas 78759

UNITED STATES PATENT AND TRADEMARK OEFICE

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

Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Laurent Bensemana :
Application No. 09/845,814 :
Filed: April 30, 2001 :
Attorney Docket No. 06670/100J190-US1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 16, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three month extension of time was obtained. Accordingly, the date of abandonment of this application is July 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3691 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

OPL E. LEE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/845,896

Paper No.: _____

DATE : 8/17/05

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 6888240

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Nitin Patel
PRIMARY EXAMINER
Technology Center 2800
Art Unit 2811
08-23-05

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE

2811
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE 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

MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANT ROAD, SUITE 201
PRINCETON NJ 08540

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:
Kabanov et al.	:
Application No. 09/845,938	: DECISION ON PETITION
Filed: 30 April, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3874-129 US	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 17 March, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to two prior-filed provisional applications.

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

This pending nonprovisional application was filed on 30 April, 2001, within twelve months of the filing dates of the prior-filed provisional applications (*i.e.*, 28 April, 2000, and 10 January, 2001). A reference to the prior-filed provisional applications 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 applications. 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). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances Hicks
Lead Paralegal
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

MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON NJ 08540

COPY MAILED

JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Kabanov et al.	:	
Application No. 09/845,938	:	DECISION ON PETITION
Filed: 30 April, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3874-129 US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed 25 October, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 1632 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/845,938	04/30/2001	1633	1253	3874-129 US		77	11

CONFIRMATION NO. 3307

CORRECTED FILING RECEIPT

OC000000022050038

26817
MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

Date Mailed: 01/18/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Alexander V. Kabanov, Omaha, NE;
Pierre Lemieux, Ste-Therese, CANADA;
Valery Yulievich Alakhov, Longueil, CA;
Sergey V. Vinogradov, Montreal, CANADA;

Power of Attorney:

Brian Buckwalter--46585

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/200,487 04/28/2000
and claims benefit of 60/260,806 01/10/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/845,938

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compositions and methods for inducing activation of dendritic cells

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P O BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
Charu Aneja et al	: DECISION ON PETITION
Application No. 09/845,959	: UNDER 37 CFR 1.137(b)
Filed: April 30, 2001	:
Attorney Docket No. RCA 90,192	:

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

The petition is **granted**.

This application became abandoned for failure to timely file a proper reply to the final Office action of May 5, 2004, which set a three month shortened statutory period for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 6, 2004.

The petition satisfies the requirements for a grantable petition in that the reply in the form of a Request for Continued Examination and the submission required by 37 CFR 1.114; the petition fee of $1,370; and the required statement of unintentional delay have been submitted. Accordingly, the reply to the final Office action of May 5, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2614 for processing the RCE and for appropriate action on the concurrently filed Amendment and Response.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Takiguchi et al.	:	
Application No. 09/845,960	:	DECISION ON
Filed: May 1, 2001	:	PETITION
Atty Docket No. 00862.001336.1	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT DUE TO NON-RECEIPT OF OFFICE ACTION filed January 29, 2008.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed February 23, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). No reply timely filed and no extension of time obtainable, the application became abandoned effective May 24, 2007. A courtesy Notice of Abandonment was mailed on January 8, 2008.

Applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

A review of the application file reveals an irregularity in the mailing of the Office action mailed February 23, 2007. Even though the Office action was addressed to the correspondence address of record, the mailing was returned to the Office as undeliverable as addressed. (It is specifically noted that there is no issue of a change of the correspondence address of record).

In addition, the petition includes a statement from the practitioner stating that the Office communication was not received by the practitioner and citing the irregularity in the mailing as evidenced by the returned mail present in the image file wrapper. The practitioner offers a copy of the relevant docket records. Given the irregularity in the mailing, it is concluded that petitioner has made an adequate showing of non-receipt.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2628 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 re-mailing of the non-final Office action mailed February 23, 2007 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

FEB 2 0 2002

OFFICE OF PETITIONS

In re Application of	:
Ginsberg, Lutnick, Gilbert, and	: DECISION ACCORDING STATUS
Findlay	: UNDER 37 CFR 1.47(a)
Application No. 09/846,025	:
Filed: 30 April, 2001	:
Attorney Docket No. CF-20	:

This is in response to the petition under 37 CFR 1.47(a), filed on 28 January, 2002.

The petition is **granted**.

Petitioner has shown that the legal representative of the deceased 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 petitioners' registered patent attorney, Joel Weiss, establishes that the legal representative was mailed a copy of the application papers but has failed to execute the declaration.

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

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

The declaration submitted with the present petition is defective in that it contains non-initialed and/or non-dated changes.[1] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted when required.

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

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

D Wood

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

[1] MPEP 602.01. See 37 CFR 1.52(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

COPY MAILED

MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of
GINSBERG, Philip M. et al.
Application No. 09/846,025
Filed: April 30, 2000
Attorney Docket No. **00-1020**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to ROPES & GRAY LLP has been revoked by the assignee of the patent application on April 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

1/30/09

In re Application of:	:	
GINSBERG, PHILIP M. et al	:	
Serial No.: 09/846,025	:	
Filed: April 30, 2001	:	DECISION ON PETITION
Docket: 00-1020	:	
Title: REAL-TIME INTERACTIVE WAGERING ON EVENT OUTCOMES	:	

This is a decision on the petition filed on January 9, 2009 by which petitioner requests withdrawal of the restriction requirement mailed December 20, 2007, and that non-elected claims 56-60 and 63-65 be rejoined and examined on the merits. Claims 11, 13, 15 and 61-62 were elected and examined. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Discussion and Analysis

A review of the record reveals that a restriction requirement under MPEP § 806.05(d)[1] was issued on Dec. 20, 2007 between four disclosed and claimed related inventions and further

[1] 806.05(d) [R-5] Subcombinations Usable Together Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants. > To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary. Each subcombination is distinct from the combination as claimed if: (A) the combination does not require the particulars of the subcombination as claimed for patentability (e.g., to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. See MPEP § 806.05(c). Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search. Where claims to two or more subcombinations are presented along with a claim to a combination that includes the particulars of at least two subcombinations, the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). For example, if an application claims ABC/B/C wherein ABC is a combination claim and B and C are each subcombinations that are properly restrictable from each other, the presence of a claim to C provides evidence that the details of B are not required for the patentability of combination ABC. Upon determining that all claims directed to an elected combination invention are allowable, the examiner must reconsider the propriety of the restriction requirement. Where the combination is allowable in view of the patentability of at least one of the subcombinations, the restriction requirement between the elected combination and patentable subcombination(s) will be withdrawn; furthermore, any subcombinations that were searched and determined to be allowable must also be

election of species. The applicant elected with traverse claims 11, 13, 15 and 61-62 which are directed to Group I invention and Species (c).

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. In the instant application, the distinctness between the claimed inventions was justified as stated in the examiner's restriction requirement of December 20, 2007 in that the subcombinations do not overlap in scope and are not obvious variants. The subcombination also is separately usable by itself. The examiner further gave an example to support his conclusion that the subcombination has separate utility such as a system in which the player uses his own money instead of credit. The examiner has satisfied the showing of distinction requirement set forth in MPEP § 806.05(d).

In the December 20, 2007 Office action, the examiner further required election of species on the basis of being patentably distinct. According to MPEP 806.04[2], a restriction is proper if the species are independent or distinct. In addition, there must be a patentable difference between the species as claimed as required by MPEP 806.04(h)[3]. A review of the record shows that the applicant has not clearly admitted on the record that the species are not patentably distinct or identify any evidence showing the species to be obvious variants (see the last paragraph of page 5 of the Office action of December 20, 2007). Since the claims directed to the Species A-E are patentable over each other, then, the election of species requirement of December 20, 2007 is proper.

Furthermore, the examiner must establish there is a serious burden on the examiner if restriction is not required, pursuant to MPEP 808.02. In particular, MPEP 808.02(C)[4] states that a serious burden exists where it is necessary for the examiner to search different fields for the restricted species. On page 3 of the December 20, 2007 Office action, the examiner noted that the various inventions and species do require different fields of search. In particular, the serious search burden arises from the characteristics of Species A-E. Each species does require a different field of search in different classes/subclasses or electronic resources and/or using different search queries. It should be noted that the application of prior art references to one invention and one species would not likely be applicable to another invention and another species. Petitioner also argues that the examiner failed to explain why there would be a serious search burden on the examiner if restriction is not required. A careful study of claims 56-57 which call for a credit limit and a maturity date and time clearly requires a prior art search in a system with a credit

---

rejoined. If a subcombination is elected and determined to be allowable, nonelected claims requiring all the limitations of the allowable claim will be rejoined in accordance with MPEP § 821.04.

[2] MPEP 806.04**>Genus and/or Species< Inventions [R-3]
**>Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct.

[3] MPEP 806.04(h)Species Must Be Patentably Distinct From Each Other[R-3]
**In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other **. Where generic claims are

[4] MPEP 808.02 Establishing Burden [R-5]
(C)A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

limit or a system that has a maturity date and time or systems with any combination or permutation of the two. Claims 61-63 call for displaying a list based on a wagering limit and updating the list every time the price of the wager changes. Clearly these claims have mutually exclusive characteristics. This imposes a significant search burden. Furthermore, there is nothing about displaying lists in the other claims. If, for instance, a search the concept behind claim 56 is made, then, the examiner still has to search the concept behind claim 61. Again, this poses a significant search burden. Claims 64-65 are directed to how the event wagered upon is associated with a market for an item, but they require a determination that the price is not available for one of the outcomes and calculating the unavailable price. This has no relationship with any of the other claims. In this regard, a Class 705 and non-patent literature search would have been required. Based on the diverse subject matter of these claims, a search in Classes and subclasses of 463/25-29; 463/16, 20, 42; Class 715/810 and Class 434 are required. Additionally, text search inquiries would involve different search applications for at least some of the grouped inventions. The potential additional classification and text searching possible also is a sufficient showing of serious burden existing in examining the claims together and is considered implied by the requirement as set up by the examiner. The different classifications and searches as provided by the examiner are sufficient to show serious burden. Because the inventions are independent or distinct for the reasons given in the restriction requirement, and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is deemed appropriate.

Conclusion

For the reasons outlined above, the restriction requirement imposed in the December 20, 2007 Office action and made final in the July 9, 2008 Office action is in accordance with proper Office procedure. Accordingly, the restriction requirement and election of species requirement is proper. The request to have the restriction requirement withdrawn will not be granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3714 for further examination and consideration of the latest amendment filed on January 9, 2009. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4514.

Accordingly, the petition is dismissed.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

NOV 22 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

09/846,052

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

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

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 67

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

MAILED

FEB 11 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/846,052

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed December 24, 2002 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

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

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WON TAE C. KIM, ESQ.
WESTERN DIGITAL TECHNOLOGIES
20511 LAKE FOREST DRIVE
INTELLECTUAL PROPERTY DEPT C2
LAKE FOREST CA 92630-774

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of
John R. Gustafson
Application No. 09/846,054
Filed: April 30, 2001
Attorney Docket No. K35A0459

: DECISION GRANTING
: PETITION

This is a decision on the paper filed September 17, 2001, which is being treated as a petition requesting that the above-identified application be accorded a filing date of April 30, 2001, rather than the presently accorded filing date of May 1, 2001.

Petitioners allege that the application was deposited in Express Mail service on April 30, 2001. In support, the petition is accompanied by a copy of Express Mail receipt No. EL763518484US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 30, 2001.

In view of the above, the petition is granted. The application will be accorded a filing date of April 30, 2001.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of April 30, 2001, and issuance of a corrected filing receipt.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

RONALD COSLICK
FOLEY & LARDNER
2029 CENTURY PARK EAST
35TH FLOOR
LOS ANGELES, CALIFORNIA 90067-3021

MAIL

OCT 02 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Victor Demjanenko, et al. :
Application No. 09/846,061 :
Filed: April 30, 2001 :
For: USE OF TURBO-LIKE CODES FOR QAM MODULATION USING INDEPENDENT I AND Q DECODING TECHNIQUES AND APPLICATIONS TO xDSL SYSTEMS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on June 24, 2002.

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

The request is **GRANTED.**

All future communications from the Office will be directed to the 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: Dr. Victor Demjanenko
VoCal Technologies Ltd.
200 John James Audobon Pkwy.
Buffalo, NY 14228

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTERN DIGITAL CORP.
20511 LAKE FOREST DRIVE
C205 - INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST CA 92630

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Raffi Codilian et al	:
Application No. 09/846,076	:
Filed: April 30, 2001	:
Attorney Docket No. K35A0895	:

This is a decision on the petition, filed July 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 20, 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 2651 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

Foley & Lardner
Suite 500
3000 K Street, NW
Washington, DC 20007

COPY MAILED

JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Joel R. Haynes, et. al. :
Application No. 09/846,091 :
Filed: April 30, 2001 :
Attorney Docket No. APF 40.01 :

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed October 3, 2003, 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 November 3, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, an Election, a Change of Correspondence Address, and a copy of an Associate Power of Attorney filed October 27, 2003.

The petition is **GRANTED**.

The Change of Correspondence Address filed June 9, 2004, has been acknowledged and made of record.

The application file is being forwarded to Technology Center Art Unit 1648, for further review of the Election filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 30 2007

OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

In re Application of :
Franklin Grosvenor et al :
Application No. 09/846,134 :
Filed: April 30, 2001 :
Attorney Docket No. 50325-0519(3693) :

ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed March 21, 2007, to defer issuance of the patent.

The petition is granted.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be forwarded to the Publishing Division to be processed into a patent.

In the meantime, the application will be held in the Office of Petitions.

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

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 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

MAILED
FROM DIRECTOR'S OFFICE

OCT 1 6 2007

TECHNOLOGY CENTER 3600

October 05, 2007

Hickman Palermo Truong & Becker LLP
2055 Gateway Place, Suite 550
San Jose, California 95110-1083

In re Application of:	:	**DECISION ON PETITION**
Franklin Grosvenor	:	**REGARDING REQUEST TO**
Application No. 09/846,134	:	**WITHDRAW FINALITY**
Filed: April 30, 2001	:	**UNDER 37 CFR 1.181**
For: METHOD AND APPARATUS PROVIDING A SUPPLY CHAIN MANAGEMENT SYSTEM USEFUL IN OUTSOURCED MANUFACTURING		

This is in response to the petition filed on March 21, 2007 under 37 CFR 1.181 requesting the withdrawal of the finality of the restriction requirement mailed April 27, 2005.

Applicants allege that the Final rejection mailed April 27, 2005 does not present any serious burden on the Examiner. Applicants further asserted that the first Office Action makes no attempt to present any substantive rationale as required by MPEP 816, or under the outline provided in MPEP 817.

A review of the record reveals that since the filing of the petition, an Issue Fee has been paid, and the application is now a patent.

Therefore since Applicants paid the Issue Fee and the application is now a patent, Applicants' arguments are considered moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to Tariq Hafiz, Supervisory Patent Examiner, at (571) 272-6729.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
Legal Department, 51U-PD
Intellectual Property Administration
P.O. Box 58043
Santa Clara CA 95052-8043

COPY MAILED
MAY 30 2007
OFFICE OF PETITIONS

In re Application of
Hilton et al.
Application No. 09/846,138
Filed: April 30, 2001
Attorney Docket No. 10992825-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed May 4, 2007, to withdraw the holding of abandonment in the above-identified application.

On October 4, 2006, the Office mailed a Notice of Abandonment, indicating that the application became abandoned for failure to timely reply to the Office letter mailed on March 21, 2005. Applicants request that the Office withdraw the holding of abandonment because they did not receive the Office action of March 21, 2005. Specifically, applicants assert that an inspection of transaction history in Public PAIR contains an entry "Mail Notice of Informal or Non-responsive Amendment," dated March 21, 2005; however, the Office action was not located in the Image File Wrapper. Therefore, applicants contend that the USPTO did not mail the Office Action of March 21, 2005, to them.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a

conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2611 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of the Office Action dated March 21, 2005. The time period for responding to the Office Action will be set to run from the mailing date of the new Office Action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

DEC 26 2006

OFFICE OF PETITIONS

In re Patent No. 7,044,458	:	
Daily et al.	:	DECISION ON REQUEST
Issue Date: May 16, 2006	:	FOR
Application No. 09/846,141	:	RECONSIDERATION OF
Filed: April 30, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 4660/5200	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)," filed July 19, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from six hundred seventy-eight (678) days to one thousand five (1005) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 16, 2006, the above-identified application matured into U.S. Patent No. 7,044,458, with a revised Patent Term Adjustment of 678 days. The instant request for reconsideration filed filed July 19, 2006 (certificate of mailing dated July 14, 2006) was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that additional periods of adjustment should have been entered for Office delay in issuing the patent more than four months after payment of the issue fee

and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Patentees are incorrect with respect to correction being required for the date entered for their filing of the Issue Fee payment. In this regard, patentees' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). The Issue Fee payment was received in the Office on March 17, 2006 (with a certificate of mailing dated March 15, 2006). For purposes of calculating PTA, the date of March 17, 2006 was properly used. Regardless, the patent issued on May 16, 2006, within four months of both dates. There was no Office delay within the meaning of § 1.703(a)(6).

With respect to §1.703(b), a review of the record confirms that an additional period of 54 days was entered for Office delay in issuing the patent. Furthermore, this is the correct period of adjustment for the delay. It is noted that the instant patent issued 3 years and 746 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that a total of 692 days overlapped. (The undersigned is unclear of patentees' basis for concluding that 327 days were non-overlapping). Thus, the additional non-overlapping period of 54 days was entered for Office delay in issuing the patent.

In view thereof, the patent term adjustment of 678 days indicated in the patent is correct.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 14 2006

OFFICE OF PETITIONS

Babak Arfaa
2310 Cullum Rd.
Bel Air, MD 21015

In re Application of	:	
Arfaa	:	Decision on Petitions
Application No. 09/846,206	:	
Filing Date: May 2, 2001	:	

This is a decision on the petition under 37 CFR 1.137(a) and the petition under 37 CFR 1.137(b) filed April 18, 2006, to revive the above-identified application.

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

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

Facts:

The application was filed on May 2, 2001.

The claims for the application did not start on a separate sheet and an abstract was not filed.

The Office accorded the application a filing date of May 2, 2001.

The Office mailed a "Notice to File Corrected Application Papers" on June 27, 2001. The Notice required the application be corrected to have the claims start on a separate sheet and required the submission of an abstract. The Notice set a shortened statutory period for reply of two (2) months.

The Office did not receive a reply to the Notice. As a result, the application became abandoned on midnight of August 27, 2001.

A Notice of Abandonment was mailed on February 6, 2004.

Discussion:

The petition under 37 CFR 1.137(a):

The basis for petitioner stating the delay was unavoidable is unclear. This portion of the decision will assume petitioner is asserting he never received the Notice to File Corrected Papers mailed May 2, 2001, and the Notice of Abandonment mailed August 27, 2001.

Per MPEP 711.03(c)(I)(A),

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has not supplied the information above to demonstrate non-receipt of either of the two Notices.

The petition under 37 CFR 1.137(b):

The petition under 37 CFR 1.137(b) could be granted but for the fact the Office is unclear as to the nature of the reply being filed with the petition. Although the petition indicates petitioner is filing corrected papers, the papers themselves indicate they are part of a continuation application.

Petitioner had two options in filing a reply to accompany the petition.

The first option was filing an amendment to the application to have the claims start on a new sheet and to add an abstract to the application. The monetary cost of this option is $0.

The second option is to file a continuation application (brand new application) and request the application be revived for purposes of copendency. The monetary cost of the second option is $500 since petitioner will eventually need to pay a filing fee, search fee, and examination fee.

A request for reconsideration should be filed and petitioner should either:

(1) Choose the first option above and supply an amendment with a cover sheet clearly labeled "Preliminary Amendment", or

(2) Choose the second option and clearly state petitioner wishes for the papers filed with the instant petition to be treated as a new, continuation application.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted.
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE, MD 21202-1626

COPY MAILED

OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Arfaa	:	
Application No. 09/846,206	:	Decision on Petition
Filing Date: May 2, 2001	:	
Attorney Docket No. 081601.00001	:	

This is a decision on the petition under 37 CFR 1.137(b) filed August 14, 2006, to revive the above-identified application.

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

The Office mailed a "Notice to File Corrected Application Papers" on June 27, 2001. The Notice required the application be corrected to have the claims start on a separate sheet and required the submission of an abstract. The Notice set a shortened statutory period for reply of two (2) months.

The Office did not receive a reply to the Notice. As a result, the application became abandoned on midnight of August 27, 2001.

A Notice of Abandonment was mailed on February 6, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Ogura et al.	:	DECISION ON APPLICATION
Application No. 09/846,310	:	FOR
Filed: May 1, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
1998/F 130 (8577*24)	:	

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT," filed December 13, 2004. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from three hundred sixty-nine (369) days to four hundred sixty (460) 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 **FIVE HUNDRED THIRTY-SEVEN (537)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 1, 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 369 days.

In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment

[1] PALM Records indicate that the Issue Fee payment was received in the Office on January 4, 2005.

of the fee set forth in 37 CFR § 1.18(e). Applicants request that the patent term adjustment be corrected to 460 days. Applicants dispute the reduction of 91 days for applicant delay in responding to the Office action mailed November 4, 2003. Applicants state that their response was received in the Office on December 8, 2003, and thus, there was no delay within the meaning of § 1.704(b). In support thereof, applicants submitted a copy of their itemized and date-stamped return postcard, which shows that a response to the November 4, 2003 Office action was received in the Office on December 8, 2003.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that applicants are correct. The response to the Office action mailed November 4, 2003, was shown to have been received in the Office within the three-month period set forth in § 1.704(b), and thus, there was no applicant delay.

Thus, the period for the Office taking action began to run upon receipt of the response on December 8, 2003. However, the Office failed to respond within four months. A non-final Office action was not mailed until June 24, 2004. Accordingly, a period of delay of 77 days, counting the number of days in the period of delay beginning on April 9, 2004, the day after the date that is four months after the date a reply under § 1.111 was filed, to June 24, 2004, the date of mailing of the non-final Office action should have been entered. See § 1.703(a)(2).

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 537 days (568 - 31).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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 updated PAIR screen

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

COPY MAILED

FEB 24 2005

OFFICE OF PETITIONS

In re Application of :
George Jackowski et al :
Application No. 09/846,342 : DECISION GRANTING PETITION
Filed: April 30, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2132.026 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 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 and an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 2, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center AU 1641.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

09/846364

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-16-2005

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction on Patent No.: 6,803,707,

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

All changes, requested by Certificate of Correction is approved by examiner and all changes apply.

Thanks

NIMESHKUMAR D. PATEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Karabi Guharay

UNITED STATES 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.

Urbain Alfred von der Embse
7323 W. 85TH ST.
WESTCHESTER CA 90045-2444

COPY MAILED

MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Urbain Alfred von der Embse	:	
Application No. 09/846,410	:	DECISION ON PETITION
Filed: February 13, 2001	:	PURSUANT TO
Title: MULTIPLE DATA RATE	:	37 C.F.R. § 3.81(B)
COMPLEX WALSH CODES FOR CDMA	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b)[1], filed December 17, 2007, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that due a typographical error appears on form PTOL-85(b), the assignee's name was not listed thereon.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

1 See Official Gazette, June 22, 2004.

MPEP §§ 301(I) and (II) sets forth, *in toto*:

> I. OWNERSHIP
> Ownership of a patent gives the patent owner the right to exclude others from making, using, offering for sale, selling, or importing into the United States the invention claimed in the patent. 35 U.S.C. 154(a)(1). Ownership of the patent does not furnish the owner with the right to make, use, offer for sale, sell, or import the claimed invention because there may be other legal considerations precluding same (e.g., existence of another patent owner with a dominant patent, failure to obtain FDA approval of the patented invention, an injunction by a court against making the product of the invention, or a national security related issue).
> The ownership of the patent (or the application for the patent) initially vests in the named inventors of the invention of the patent. See Beech Aircraft Corp. v. EDO Corp., 990 F.2d 1237, 1248, 26 USPQ2d 1572, 1582 (Fed. Cir. 1993). The patent (or patent application) is then assignable by an instrument in writing, and the assignment of the patent, or patent application, transfers to the assignee(s) an alienable (transferable) ownership interest in the patent or application. 35 U.S.C. 261.
>
> II. ASSIGNMENT
> "Assignment," in general, is the act of transferring to another the ownership of one's property, i.e., the interest and rights to the property. In 37 CFR 3.1, assignment of patent rights is defined as "a transfer by a party of all or part of its right, title and interest in a patent or patent application...." An assignment of a patent, or patent application, is the transfer to another of a party's entire ownership interest or a percentage of that party's ownership interest in the patent or application. In order for an assignment to take place, the transfer to another must include the entirety of the bundle of rights that is associated with the ownership interest, i.e., all of the bundle of rights that are inherent in the right, title and interest in the patent or patent application.

The present request pursuant to 37 C.F.R. § 3.81(b) has been accompanied by the petition fee and a copy of form PTOL-85b.

Petitioner has not included a certificate of correction or the $100 fee associated with the filing of a request for the same.

Moreover, it is noted that Petitioner is the sole inventor, and that he has attempted to add himself as the assignee.

MPEP § 301(I) sets forth that the ownership of the patent (or the application for the patent) initially vests in the named inventor of the invention of the patent. MPEP § 301(II) indicates that assignment is the act of transferring to another the ownership of one's property. As such, Petitioner has attempted to transfer

the ownership of this patent from himself, to himself, and this is not possible.

Hence, this petition must be **DISMISSED.**

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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

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 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
www.uspto.gov

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL FL 33322

COPY MAILED

JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Belcea, John M.	:	
Application No. 09/846,434	:	ON PETITION
Filed: May 2, 2001	:	
Attorney Docket No. MESH006	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment and a Terminal Disclaimer; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH, EVEN, TABIN & FLANNERY
120 SO. LASALLE STREET, SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Parsadayan, Walter	:	
Application No. 09/846,439	:	ON PETITION
Filed: April 25, 2001	:	
Attorney Docket No. 79461	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings, the issue fee and the publication fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed June 30, 2004. Accordingly, the above-identified application became abandoned on October 1, 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 the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,534,194	2003-03-18	09/846,447	2001-05-01	13631-5

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	/Daniel D. Sierchio/	Date (YYYY-MM-DD)	2007-05-07
Name	Daniel D. Sierchio	Registration Number	53591

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. 6534194
Issue Date: March 18,2003
Application No. 09846447
Filed: May 1,2001
Attorney Docket No. 13631-5B

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 7,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

COPY MAILED
JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Wen et al. : DECISION ON PETITION
Application No. 09/846,452 :
Filed: April 30, 2001 :
Atty Docket No. 3997P007 :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 TO WITHDRAW THE NOTICE OF ABANDONMENT (ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.137(a) TO REVIVE) filed May 17, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed January 12, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective April 13, 2006. A courtesy Notice of Abandonment was mailed on May 3, 2006.

Petitioner states that a response to the Office action was deposited in the USPS "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on May 12, 2006. This response included an amendment and a petition and fee for extension of time for response within the first month. In support thereof, petitioner submits a copy of those papers including the extension of time as maintained to have been timely filed.

Petitioner's evidence has been reviewed, and is persuasive. However, full consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of May 12, 2006.

The one-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed May 3, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The petition fee of $400 submitted is being refunded to petitioner's Deposit Account, as authorized. Because consideration of the alternative petition under 1.137(a) is unnecessary, no petition fee was charged for such consideration.

Technology Center AU 2663 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 timely filed on May 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE : D303A
BRIDGEWATER, NJ 08807

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Marie-Francoise Rosier-Montus et al	:
Application No. 09/846,456	:
Filed: May 2, 2001	:
Attorney Docket No. 3806.0505	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 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 October 14, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 1636 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

United States Patent and Trademark Office

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

Chun M. Ng
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026

FEB 28 2003

In re Application of)
TSENG)
Application No. 09/846,470)
Filed: April 30, 2001)
For: High Coupling Ratio Stacked-Gate Flash Memory)
and the Method of Making the Same)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request under 37 C.F.R. § 1.36, filed on November 18, 2002, to withdraw all attorneys of record.

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 of the above listed requirements. Accordingly, the request is **APPROVED**.

All future communications from the Office will be directed to the correspondence address indicated in the request.

Hien H. Phan, Special Program Examiner
Group 2800 -- Semiconductors, Electrical
and Optical Systems and Components

cc: Clement Cheng
17220 Newhope Street, #127
Fountain Valley, CA 92708

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Paper No. 12

GLEN E. BOOKS, ESQ.
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

COPY MAILED

SEP 04 2003

OFFICE OF PETITIONS

In re Application of
Weihs et al.
Application No. 09/846,486
Filed: May 1, 2001
Attorney Docket No. 13631-2

ON PETITION

This decision concerns the "Petition under 37 CFR 1.181 - Request for Reinstating Filing Date" filed on June 16, 2003, which is being properly treated as a petition under 37 CFR 1.53(e).[1]

The petition is **GRANTED**.

BACKGROUND

On May 1, 2001, the application was filed. On February 13, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("2/13/02 Notice"), stating that the application had not been accorded a filing date because it was deposited without drawings.

On April 18, 2002, in response to the 2/13/02 Notice, Applicants submitted 6 sheets of drawings containing Figures 1-8 and 9A-B, under a transmittal captioned "Preliminary Amendment." This transmittal did not dispute the 2/13/02 Notice, but merely conveyed that: (1) Figures 1-5, as contained in Provisional Application No. 60/201,293, were incorporated into this application by reference; (2) The remaining figures, i.e., Figures 6-8, 9A-B, were not necessary for understanding the claimed invention in this application.

Subsequently, the filing date for this application was changed from May 1, 2001 to April 18, 2002.

Neither the instant petition nor the April 18, 2002 submission includes a copy of Applicants' postcard receipt, listing and itemizing the papers being mailed with the postcard on May 1, 2001, and date-stamped by the USPTO.

---

[1] This petition was recently received in the Office of Petitions. Apparently, similar requests for a corrected filing date had been filed before allowance, on 9/20/02 by facsimile and again on 9/25/02, but were never forwarded to this Office for action. The Office sincerely apologizes for any inconvenience caused by the delay.

DISCUSSION

This application is entitled to a May 1, 2001 filing date without any drawings

As stated in MPEP 601.01(f) (Rev. 1, Feb. 2003), it is the practice of the USPTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim . . . directed to the subject matter . . . 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. (emphasis added)

This application, upon filing on May 1, 2001, included 32 method claims. 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 2/13/02 Notice was mailed in error and is hereby withdrawn.

The application, consisting of the papers received in the USPTO on May 1, 2001, is hereby accorded the requested filing date of May 1, 2001. The petition is thus **GRANTED.**

Incorporation by reference

The petition also argues in Section (III) (page 5) that the contents of all the drawings in the instant application (Figures 1-8, 9A-B) were disclosed in the earlier Provisional Application, No. 60/201,293. This argument is inconsistent with the title of this section: "Useful Drawings are Incorporated by Reference from the Provisional Application." The mechanism set forth in this argument clearly is not "incorporation by reference."

Unfortunately, the petition containing this argument was not presented to the USPTO until two weeks after the application had been allowed, when the determination should appropriately be made by the Examiner.

The Office notes, however, that:

(A) The specification filed on May 1, 2001 referred to three applications, one being Provisional Application No. 60/201,292, but did not provide the serial numbers for the other two applications. The specification states under "Cross Reference to Related Applications" that "[t]hese three related applications are incorporated herein by reference."

(B) The April 18, 2002 Preliminary Amendment mentions only Figures 1-5 contained in Provisional Application No. 60/201,292 being incorporated by reference into the instant application.

(C) Provisional Application No. 60/201,292, a copy of which is supplied with the instant petition, includes only 4 sheets of drawings containing Figures 1-6.

In summary, on May 1, 2001 when the instant application was filed, the disclosure in Provisional Application No. 60/201,292, including that in the drawings, were, through the incorporation-by-reference clause in the May 1, 2001 specification, incorporated into the instant application.

CONCLUSION

The papers received in the USPTO on May 1, 2001, i.e., **not including any drawings**, are accorded that filing date.

No petition fee is owed.

The application is being returned to the Office of Initial Patent Examination for correcting the filing date to May 1, 2001; for mailing a corrected filing receipt reflecting that filing date; and for indication in USPTO records that "0" sheets of drawings were present on the May 1, 2001 filing date.

Thereafter, the application will be forwarded to Technology Center 1700 for examination of the Request for Continued Examination (RCE) apparently filed on August 28, 2003. The USPTO record does not show payment of the issue fee.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory 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

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

COPY MAILED

MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Sharma et al.	:	
Application No. 09/846,492	:	DECISION GRANTING PETITION
Filed: April 30, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SUNMP008	:	

This is a decision on the petition, filed March 14, 2005, 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 23, 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 September 1, 2005 accompanies this decision on petition.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

#15

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

JUN 30 2003

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of	:
Rachel Meyers et al	:
Serial No.: 09/846,512	: WITHDRAWAL OF ABANDONMENT
Filed: May 1, 2001	:
Attorney Docket No.: 10448-046002	:

This is in response to the petition under 37 CFR 1.181, filed March 20, 2003, requesting withdrawal of the holding of abandonment of the above identified application.

A review of the file history shows that the examiner mailed an Office action to applicants on May 20, 2002, setting a three month shortened statutory period for reply. Applicants replied on October 21, 2002, including a two month extension of time request and fee therefor. A Notice of Abandonment was mailed to applicants on February 11, 2003. Applicant filed this petition on March 20, 2003, indicating that a reply to the Office action had been timely made. The reply has now been located and entered in the file. Thus the Notice of Abandonment was mailed in error and is vacated and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded for proper entry of the amendment and then forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 3

20 MAY 2002

Sajid Ali Mirza Khan
2 Union Place
Ridgefield, New Jersey 07660

In re Application of: Sajid Khan et al. Application No. 09/846,556 Filed: April 30, 2001 For: DEBIT CARDS AND CREDIT CARDS WITH WEEKLY LIMITS	)))))	**DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT**

This is a decision on the petition, filed August 15, 2001, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicant's submission is deficient in that it fails to meet any of criteria (A)-(C) listed above and because no references have been submitted. A general concern that an invention may be copied does not meet the standard of actual infringement. Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

DEC 17 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 5

Sajid Ali Mirza Khan
2 Union Place
Ridgefield Park, NJ 07660

In re application of Sajid Ali Mirza Khan et al. Application No. 09/846,556 Filed: April 30, 2001 For: DEBIT CARDS AND CREDIT CARDS WITH WEEKLY LIMITS	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the renewed petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on October 15, 2002.

The petition requests that the above-identified application be made special under the procedure set forth in MPEP 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 May 16, 2001 lacks requirement 2(B) and 2(C) above. In view of this deficiency, the petition is **DISMISSED**.

The petition fails to state that the required rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his opinion, some of the claims are unquestionably infringed.

The petition also lacks any mention of the prior art other than the bank flyer of the student access card. As pointed out above, the requirement is that the most closely related pieces of prior art (based upon a careful and thorough search of the prior art, unless the applicant has intimate knowledge of the prior art in the field of applicant's claimed invention) must be submitted. No such submission of prior art has yet been submitted.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm: 12/15/02

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of R. Edward Winters Application No. 09/846,565 Filed: April 27, 2001 For: LOW PROFILE EXPANDABLE HOOP SUPPORT DEVICE FOR FLEXIBLE TUBES	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 11, 2003 . The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 12, 2003. A Notice of Abandonment was mailed on September 23, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal (and fee); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of

March 11, 2003 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

As authorized, the small entity $750 petition fee and $250 Notice of Appeal fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being forwarded to Technology Center AU 3738.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAIL

Paper No. 6

MAY - 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Lindblad et al. :
Application No. 09/846,582 :
Filed: May 1, 2001 :
For: METHOD AND APPARATUS FOR ADJUSTING CONTRAST DURING ASSEMBLY OF LIQUID CRYSTAL DISPLAYS AND SIMILAR DEVICES :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 6, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All 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: TIMOTHY J. LORENZ
INGRASSIA, FISHER, & LORENZ, P.C.
SUITE 325
7150 E. CAMBELBACK ROAD
SCOTTSDALE, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

Ingrassia Fisher & Lorenz, P. C.
7150 E. Camelback
Suite 325
Scottsdale, AZ 85251

COPY MAILED

NOV 1 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Edward Lindblad, et al.	:	
Application No. 09/846,582	:	DECISION GRANTING PETITION
Filed: May 1, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 50028.0001US01	:	

This is a decision on the petition, filed October 2, 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 April 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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2871 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

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

November 25, 2003

Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow RD
Melville, NY 11747

In re application of:
Lorrence H. Greene DECISION ON PETITION
Serial No.: 09/846,687
Filed: May 1, 2001
For: METHOD AND VACCINE FOR THE PREVENTION OF AIDS

This is a decision on the petition received on October 31, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed July 6, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned September 7, 2001.

On October 31, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on January 17, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on January 17, 2002, with 3 months of extensions.

The petition is hereby Granted.

The application has been completed for release to Technology Center 1646.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

DAC

RECEIVED
NOV 0 4 2003
OFFICE OF PETITIONS

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

OIPE JC26
OCT 3 1 2003
PATENT & TRADEMARK OFFICE

APPLICANT: Lorrence H. Green

SERIAL NO.: 09/846,687

FILED: May 1, 2001

FOR: Method and Vaccine for the Prevention of AIDS

GAU: 1646

Attention: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW THE NOTICE OF ABANDONMENT

Applicant Made a Timely Reply To The Notice To File Missing Parts

The Applicant timely mailed a Notice to File Missing Parts Issued on July 6, 2001 on December 6, 2001. Included in this response was a:

1. Check in the amount of $937 to cover the filing fee and extension of time.
2. A copy of the "Notice to File Missing Parts of Application – Filing Date Granted."
3. Declaration and Power of Attorney of Inventor
4. Request for Extension of Time.
5. Sequence Listing

Applicant paid the $937 check for application 09/846,687 on December 6, 2001 with

Office Action Response to the correspondence mailed on December 6, 2001. Applicant also never received a Notice of Abandonment by the PTO. However, the check was presented for payment on January 25, 2002, see attached. Thus, the PTO received the Response including the filing fee and the Missing Parts. The fee was accompanied by a Transmittal and a Certificate of Mailing dated December 6, 2001 which serves as sufficient evidence under 37 CFR § 1.8(b) to demonstrate that the required fees were paid and any failure to respond was unintentional.

Conclusion

For the foregoing reasons Applicant asserts that there was a timely filed Response to the Notice to File Missing Parts and requests the Application 09/846,687 be revived.

Respectfully submitted,

Thomas A. O'Rourke
Reg. No. 27,665
Bodner & O'Rourke
425 Broadhollow Road
Melville, New York 11747
(631) 423-2700

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

Date of Deposit: October 29, 2003
Print Name: Thomas A. O'Rourke
Signature: Thom O'R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
NOV 0 4 2003
OFFICE OF PETITIONS

APPLICANT: Lorrance H. Green

SERIAL NO.: 09/846,687

FILED: May 1, 2001

FOR: Method and Vaccine for the Prevention of AIDS

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CHANGE OF ADDRESS

Please address all correspondence in the above identified application as follows:

Thomas A. O'Rourke
BODNER & O'ROURKE, L.L.P.
425 Broadhollow Road
Melville, New York 11747
Tel No. (631) 249-7500
Fax No. (631)249-4508

Respectfully submitted,

Thomas A. O'Rourke
Reg. No.: 27,665

THOMAS A. O'ROURKE
99 PARK AVE., 8TH FLR.
NEW YORK, NY 10016

150091224 102 4155 813 012502

1-148
210
103149894

2873

Date December 6, 2001

Pay to the order of Commissioner of Patents + Trademarks $ 937.00

Nine Hundred Thirty Seven Dollars

Security Features Included. Details on Back.

citibank

CITIBANK, N.A. BR. #813
1 ROCKEFELLER PLAZA
NEW YORK, NY 10020

Memo

Thomas O'Rourke

MP

⑆021001486⑆ 103149894⑈ 2873 ⑈0000093700⑈

PAID CITIBANK 01/25/02
CCPD #653 0212-0400-5
4155 150091224 012502

0273437

056 001 118

FIRST VIRGINIA BANK
6407 ARLINGTON BLVD.
FALLS CHURCH, VA.
1-800-[illegible]

056001118

0011 91598

PATENT AND TRADEMARK OFFICE
13-10-0001
01-23-2002
FOR CREDIT TO THE
U.S. TREASURY

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

November 25, 2003

Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow RD
Melville, NY 11747

In re application of:
Lorrence H. Greene DECISION ON PETITION
Serial No.: 09/846,687
Filed: May 1, 2001
For: METHOD AND VACCINE FOR THE PREVENTION OF AIDS

This is a decision on the petition received on October 31, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed July 6, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned September 7, 2001.

On October 31, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on January 17, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on January 17, 2002, with 3 months of extensions.

The petition is hereby Granted.

The application has been completed for release to Technology Center 1646.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, NY 11747

COPY MAILED

NOV 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Lorrence H. Green	:	
Application No. 09/846,687	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 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)." Petitioner is advised that this is not a final agency decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed January 28, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 28, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

A review of Finance records show that petitioner submitted $665 for the petition to revive fee. However, effective October 1, 2004, the petition to revive fee was increased from $665 to $685. Therefore, the above-identified application cannot be revived until the fee deficiency of $20 has been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE
NOV 2 9 2004
PATENT & TRADEMARK OFFICE

RECEIVED
DEC 0 2 2004
OFFICE OF PETITIONS

Paper No. 14

Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, NY 11747

COPY MAILED
NOV 1 5 2004
OFFICE OF PETITIONS

In re Application of	:	
Lorrence H. Green	:	
Application No. 09/846,687	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 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)." Petitioner is advised that this is not a final agency decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed January 28, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 28, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

A review of Finance records show that petitioner submitted $665 for the petition to revive fee. However, effective October 1, 2004, the petition to revive fee was increased from $665 to $685. Therefore, the above-identified application cannot be revived until the fee deficiency of $20 has been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
DEC 0 2 2004
OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 16

Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747

RECEIVED
DEC 1 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Lorrence H. Green	:	
Application No. 09/846,687	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 29, 2004, to revive the above-identified application.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 1648 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
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

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

COPY MAILED

AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Kuracina, et al. :
Patent No. 6,629,959 :
Issued: 7 October, 2003 :
Application No. 09/846,706 :
Filed: 30 April, 2001 :
Attorney Docket No. INJEC-016C1 :

NOTICE

This is in response to the paper filed 2 October 2006, and 13 March, 2007, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

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.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

> **NOTE**: Petitioner is reminded that the regulations require that Petitioner file for each application/patent an accounting effective the actual date of loss of status, specifying the date(s), the amount(s) paid, amount(s) actually due, and the difference(s) due and payable. (*See*: the regulations at 37 C.F.R. §1.28,[1] and in particular at 37 C.F.R. §1.28(c)(2)(ii)—with the penalty provisions at 37 C.F.R. §1.28(c)(3).)

---

[1] The regulations at 37 C.F.R. §1.28 provide:

§ 1.28 Refunds when small entity status is later established; how errors in small entity status are excused.

(a)*Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

(b)*Date of payment.*

(1)The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid;

(2)The date when a deficiency payment is paid in full determines the amount of deficiency that is due, pursuant to paragraph (c) of this section.

(c)*How errors in small entity status are excused.* 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:

(1)*Separate submission required for each application or patent.* Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency payments (*e.g.*, checks) and itemizations are required for each application or patent. See § 1.4(b).

Out of an abundance of caution, Petitioners always are reminded that 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.

This file is being returned to IFW Files Repository.

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

---

(2)*Payment of deficiency owed.* The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i)*Calculation of the deficiency owed.* The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii)*Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A)Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B)The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C)The deficiency owed amount (for each fee erroneously paid); and

(D)The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3)*Failure to comply with requirements.* If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(d)*Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

[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).

[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.

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)
6,634,047	2003-10-21	09/846,713	2001-04-30	3977P2626

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	/Jeffrey D. Moy/	Date (YYYY-MM-DD)	2008-09-25
Name	Jeffrey D. Moy	Registration Number	39307

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. 6634047
Issue Date: October 21,2003
Application No. 09846713
Filed: April 30,2001
Attorney Docket No. 3977P2626

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICHARD R. MUCCINO
758 Springfield Avenue
Summit, NJ 07901

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Stanley E. KATZ et al.
Application No. 09/846,722
Filed: May 1, 2001
Attorney Docket No. CSI1.0-005CIP

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 23, 2004, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on June 25, 2004, be4aring an executed certificate o9f mailing dated June 20, 2005, that reply did not prima facie place this application in condition for allowance as indicated by the Advisory Action of February 15, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on June 24, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 23, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1617.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Pet Dec

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 18 2004

In re Application of Zepf
Serial No.: 09/846777
Filed: May 01, 2001

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

For: **Polymer Membrane Meshes**

This is a decision on the petition filed January 12, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the name of Richard McDonogh as joint inventor. Applicant have correctly included a request to correct the inventorship that sets forth the desired inventorship change, a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her behalf, an oath or declaration by the actual inventor(s), the processing fee, and assignment.

The petition there for is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Wanda L. Walker
Supervisory Patent Examiner
Technology Center 1700

KNOBBE, MARTENS, OLSON & BEAR, LLP
Rose M. Thiessen
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

Paper No. 16

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of
George JACKOWSKI, *et al.*
Application No. 09/846,779
Filed: April 30, 2001
Attorney Docket No. **2132.038**

ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed on September 30, 2005, 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 on September 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned, by operation of law, on December 17, 2003. A Notice of Abandonment was mailed on April 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of September 16, 2003 is accepted as having been unintentionally delayed.

Since the above-identified application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer under 37 CFR 1.137(d) is not required. The terminal disclaimer fee of $65 is being credited to Deposit Account No. 50-1803.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

Application No. 09/846,779

The application file is being referred to Technology Center AU 1654 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

COPY MAILED

DEC 0 5 2002

OFFICE OF PETITIONS

Applicant: Halaj et al.
Appl. No.: 09/846,781
Filing Date: May 2, 2001
Title: SOFTWARE, DEVICES AND METHODS FACILITATING EXECUTION OF SERVER-SIDE APPLICATIONS AT MOBILE DEVICES
Attorney Docket No.: 92509-3
Pub. No.: US 2002/0107580 A1
Pub. Date: August 8, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 19, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

OCT 08 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Fenwick & West, LLP
Two Palo Alto Square
Palo Alto, CA 94306

Paper No. 8

In re application of	:	**DECISION ON PETITION**
Ted E. Dunning et al.	:	**TO MAKE SPECIAL**
Application No. 09/846,823	:	**(ACCELERATED**
Filed: April 30, 2001	:	**EXAMINATION)**
For: RELATIONSHIP DISCOVERY ENGINE	:	

This is in response to the petition filed on May 15, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed May 15, 2002 fails to adequately meet requirement (A) above. The petition fee under 37 CFR 1.17(i) has not been filed and no authorization to charge a deposit account has been given.

For the above stated reasons, the petition is DISMISSED.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

SUMMARY: Petition to Make Special **DISMISSED**.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm: 9/28/02

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

MAR 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

Paper No. 11

In re application of
Ted E. Dunning et al.
Application No. 09/846,823
Filed: April 30, 2001
For: RELATIONSHIP DISCOVERY ENGINE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on October 23, 2002, and supplemented on March 21, 2003, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

A petition to make special was filed on May 15, 2002. The petition was dismissed in a decision mailed October 8, 2002 wherein it was held that the petition fee under 37 CFR 1.17(i) had not been filed and no authorization to charge a deposit account was given.

Since the requirement lacking in the original petition of May 15, 2002 has now been supplied, all the items required for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 3/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER & DANIELS LLP
202 SOUTH MICHIGAN ST
SUITE 1400
SOUTH BEND IN 46601

COPY MAILED

OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Valia, et al.	:	
Application No. 09/846,829	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. ISP0086	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 17, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file an Appeal Brief after a Notice of Appeal had been filed on December 13, 2007. The Office had previously mailed a final Office action on June 14, 2007. In reply, applicants filed a Notice of Appeal, together with a Pre-Appeal Brief Request for Review. The filings were made timely by obtaining a three month extension of time. The Office mailed a Notice of Abandonment on August 13, 2008. The Notice stated that applicant had two months from December 13, 2007 to file a Notice of Appeal or an RCE, and as neither was filed, the application was now abandoned.

With regards to the Pre-Appeal Brief Request for Review, the Office has stated in the Official Gazette:

> Upon receipt of a properly filed request, a Technology Center Art Unit supervisor will designate a panel of examiners experienced in the field of technology to review the applicants's remarks and the examiner's

> rejections....The panel members will review the rejection(s) identified by applicant in the request....The Office should mail a decision within 45 days of receipt of a properly filed request.[1]

In view of the above, it is obvious that the Notice of Abandonment was mailed in error.

Accordingly, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to Group Art Unit 1797 for a panel review of the Pre-Appeal Brief Request for Review, filed December 13, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See New Pre-Appeal Brief Conference Pilot Program, 1296 Off. Gaz. Pat. Office 67 (July 12, 2005). On January 10, 2006, the pilot program was extended by the Office, until further notice.

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

BAKER & DANIELS LLP
202 South Michigan Street
Suite 1400
South Bend, IN 46601

Mail Date: 04/21/2010

Applicant	: Hardarshan S. Valia	: DECISION ON REQUEST FOR
Patent Number	: 7611609	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/846,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/01/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Weaver Austin Villeneuve &
Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

COPY MAILED

AUG 03 2009

OFFICE OF PETITIONS

In re Application of :
Schwartzman, et al. :
Application No. 09/846,849 : ON APPLICATION FOR
Filed: May 2, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. CISCP203/60241 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 15, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand five hundred seventy-nine(1,579) days, not one thousand one hundred twenty-eight(1,128) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even in this instance where a request for continued examination (RCE) was filed.) The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination)is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 10 2010

OFFICE OF PETITIONS

Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Patent of Schwartzman et al	: DECISION ON REQUEST
Patent No. 7,587,746	: FOR RECONSIDERATION OF
Issued: September 8, 2009	: PATENT TERM ADJUSTMENT
Application No. 09/846,849	: AND
Filed: May 2, 2001	: NOTICE OF INTENT TO ISSUE
Docket No. CISCP203/60241	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed October 29, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-nine (1,579) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-nine (1,579) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 3, 2004 and ends on November 16, 2006, the day before the RCE was filed, and is 928 (not 929) days. Further, 91 days are excluded as appellate period beginning on the date the Notice of Appeal was filed, August 18, 2006, and ending on the day before the RCE was filed, November 16, 2006. There is an overlapping period of 387 days, not 478 days, beginning on August 2, 2004, the day after 36 months from the filing date plus the number of days excluded, and ending on August 23, 2005, the date the first action on the merits was mailed. *See* 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1,578, not 1,579 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Pursuant to patentees' authorization, deposit account no. 50-4480 is being charged the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-eight (1,578)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,587,746 B1

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Schwartzman 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 U.S.C. 154(b) by 1128 days

Delete the phrase "by 1128 days" and insert – by 1578 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TESTA, HURWITZ & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAIL

APR 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Richard HAYTON, et al.
Application No. 09/846,884
Filed: May 1, 2001
For: METHODS AND APPARATUS FOR CREATING A USER INTERFACE USING PROPERTY PATHS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed March 4, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on August 9, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Lahive & Cockfield LLP as the attorney(s) of record of the instant application. The Power of Attorney of August 9, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Lahive & Cockfield LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of Judice et al. Application No. 09/846,893 Filed: May 1, 2001 Atty Docket No. P-105-R	: : : : :	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed August 26, 2004. Applicants request correction of the patent term adjustment from four hundred twenty-two (422) days to six hundred ninety-one (691) days (assuming the patent issues on January 25, 2005).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent*

Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAIL

MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Richard HAYTON, et al.
Application No. 09/846,896
Filed: May 1, 2001
For: METHODS AND APPARATUS FOR COMMUNICATING CHANGES BETWEEN A USER INTERFACE AND AN EXECUTING APPLICATION USING PROPERTY PATHS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 4, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 2 6 2006
OFFICE OF PETITIONS

Glenn Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles CA 90025

In re Application of	:	
Robert Brodersen et al.	:	
Application No. 09/846,920	:	DECISION ON PETITION
Filed: April 30, 2001	:	TO WITHDRAW
Attorney Docket No. 05306.P030	:	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 16, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova and those practitioners have been revoked by the assignee of the patent application on August 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

cc: Sam Campbell
Campbell, Stephenson Associates, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, Texas 78579

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
09/846,920	04/30/2001	Robert Brodersen	05306P030

CONFIRMATION NO. 3664

OC000000020867190

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
7th Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Date Mailed: 10/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

COPY MAILED

NOV 09 2006

OFFICE OF PETITIONS

In re Application of	
UBERTI	
Application No. 09/846,927	DECISION ON PETITION
Filed: April 30, 2001	TO WITHDRAW
Attorney Docket No. 45099/DRK/U345	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 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 cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

A Review of the file discloses that a non-final Office action was mailed on July 14, 2006, which set forth a one month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of July 14, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: James Uberti
Touchcredit Financial Services, Inc.
660 Fourth Street, #101
San Francisco, CA 94107

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

COPY MAILED

APR 25 2008

OFFICE OF PETITIONS

In re Application of
UBERTI, James
Application No. 09/846,927
Filed: April 30, 2001
Attorney Docket No. **45099/DRK/U345**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 04, 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 Daniel R. Kimbell 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.

All future correspondence will be directed to the first named inventor James Uberti at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed July 14, 2006.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JAMES UBERTI**
TOUCHCREDIT FINANCIAL SERVICES, INC.
660 FOURTH STREET
#101
SAN FRANCISCO, CA 94107

UNITED STATES 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

Arnold S. Weintraub
The Weintraub Group, P.L.C.
32000 Northwestern Highway, Suite 240
Farmington Hills, Michigan 48334

COPY MAILED

DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of
Barry Schwab
Application No. 09/846,933
Filed: May 1, 2001
Attorney Docket No. TTI-102-D
[12209.11242]
Title: SECURE INTERACTIVE DIGITAL SYSTEM FOR DISPLAYING ITEMS TO A USER IDENTIFIED AS HAVING PERMISSION TO ACCESS THE SYSTEM

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(a)

This is a decision on the petition filed on November 10, 2003, 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 Notice of Missing Parts (notice), mailed August 31, 2001, which set a shortened statutory period for reply of two (2) months. The notice set forth that a properly executed oath or declaration in compliance with 37 C.F.R. §1.63, a surcharge for its late filing, and substitute drawings were required to avoid abandonment. 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 November 1, 2001.

The instant petition lacks items (1) and (3) above.

---

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.

Regarding the first requirement above, petitioner has failed to supply a required reply. The notice indicated that an executed oath or declaration, the associated surcharge, and substitute drawings were required. With the instant petition, none of these items have been located in the file[2].

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).

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."[3].

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."[4]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[5]

Nonawareness of a PTO rule will not constitute unavoidable delay[6]

---

2 Petitioner sets forth that copies of the check and the declaration were submitted with the instant petition, but such has not been located in the file. Furthermore, petitioner did not submit the fee associated with the late filing of an oath or declaration, or substitute drawings. Each of these three items was required by the notice.

3 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."))

4 Id.

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

6 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

> The burden of showing the cause of the delay is on the person seeking to revive the application[7].
>
> A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[8].

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[9].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[10]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[11]."

Application of the standard to the current facts and circumstances

With the instant petition, Petitioner has stated that on October 30, 2001, a declaration, a check, and a copy of the notice was submitted to the Office. Unfortunately, petitioner placed the wrong application number on the response. Petitioner states that this is apparent from the copies of the

---

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.

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

9 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

10 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

11 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

check, postcard, and response,[12] and that it is "quite clear that the application became unavoidably abandoned[13]."

First, even if the Office had received these items and matched them with the file, the application would have gone abandoned due to the petitioner's failure to submit the substitute drawings, as required per the notice. Even with the renewed petition, petitioner does not address this requirement. It appears that petitioner has overlooked this requirement of the notice.

Secondly, Petitioner is a registered practitioner, and as such, surely understands that when a communication is submitted to the Office, it is matched to the application that corresponds to the application number listed on the communication. With a little diligence, it is believed that the petitioner would have realized that the wrong application number had been listed on the communication, upon comparing the communication to his file record, prior to mailing. While mistakes certainly occur, it does not appear that petitioner exhibited a level of diligence consistent with his most important business, and thus the inadvertent entry of an incorrect number certainly cannot rise to the level of "unavoidable".

Consequently, the petition is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a) (or *Renewed Petition under 37 C.F.R. §1.137(b), if applicable)*." This is **not** a final agency action within the meaning of 5 U.S.C. §704.

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.

The filing of a petition under 37 CFR §1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR §1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR §1.137(b).

The reply to this letter may be submitted by mail[14], hand-delivery[15], or facsimile[16]. **Please note that the later two have changed, as of December 1, 2003.**

---

12 Again, these copies have not been located in the application file.
13 Petition, page 2.
14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450,

The change of correspondence address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Alexandria, VA, 22313-1450.
15 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202
16 (703) 872-9306.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 8

Arnold S. Weintraub
The Weintraub Group, P.L.C.
3200 Northwestern Highway
Suite 240
Farmington Hills MI 48334

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Barry Schwab
Application No. 09/846,933
Filed: May 1, 2001
Attorney Docket No.: TTI-102-D
[12209.11242]
Title: SECURE INTERACTIVE DIGITAL SYSTEM FOR DISPLAYING ITEMS TO A USER IDENTIFIED AS HAVING PERMISSION TO ACCESS THE SYSTEM

DECISION ON RENEWED PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed March 1, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 31, 2001, which set a shortened statutory period for reply of two (2) months. The notice set forth that a properly executed oath or declaration in compliance with 37 C.F.R. 1.63, a surcharge for its late filing, and substitute drawings were required to avoid abandonment. 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 November 1, 2001.

1 A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

On November 10, 2003, petitioner filed the original petition under 37 C.F.R. §1.137(a), which was dismissed via the mailing of a decision on March 2, 2004, for failure to submit the required reply and to establish that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

With the renewed petition, Petitioner has submitted the petition fee, the surcharge associated with the late filing of an oath or declaration[2], substitute drawings, and a declaration, along with the proper statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

2 The surcharge has been charged to Petitioner's Deposit Account, as authorized in the petition.

OIPE JC154
APR 1 8 2005
TRADEMARK OFFICE

DAC
DW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Charles E. Miller (Deceased)
Patent No:	5,275,470
Issued:	January 4, 1994
Title:	SCRAPING DEVICE FOR POWERED STONE FLOOR DRESSING UNIT
Our File:	MCO-100-A

CERTIFICATE OF MAILING AND COVER LETTER

Mail Stop Petition
Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Request for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in Expired Patent; Certificate of Mailing and Cover Letter and Self Addressed, Stamped Postcard.

_____ No additional fee is believed to be required.

_X_ Our Checks in the amount $130.00 is attached.

_____ Charge _____ to Deposit Account No. 50-2815.

_X_ Please charge any additional fees or credit overpayment to Deposit Account No. 50-2815.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petitions Hon. Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of April, 2005

Rachel M. Snyder

Rachel M. Snyder

OIPE JC
APR 1 8 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Charles E. Miller (Deceased)
Application Serial No:	09 / 846,933
Patent No.	5,275,470
Filed:	October 27, 1992
Issue Date:	January 4, 1994
Title:	SCRAPING DEVICE FOR POWERED STONE FLOOR DRESSING UNIT

Atty. Ref: MCO-100-A

REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN EXPIRED PATENT (37 CFR 1.378 (b))

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria VA 22313-1450

Attention:
Paul Shanoski, Senior Attorney

Sir:

In their "Decision on Petition Under 37 CFR 1.378 (b)" (Paper No. 15, dated February 14, 2005) ("Decision"), the Petitions Office "dismissed" Petitioner's "Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))" ("Petition").

This Paper is a request for reconsideration of the Decision. Petitioner requests that the Petitions Office (a) grant the Petition, (b) find that the failure to pay a required maintenance fee was unavoidable, as that term is used under 37 CFR 1.378(b), and (c) restore the patent.

Attached hereto is a check in the amount of $130.00, to cover the reconsideration fee set forth in 37 CFR 1.17(h). The requisite 7 ½ year maintenance fee was previously submitted.

04/19/2005 SFELEKE1 00000013 5275470
01 FC:1464 130.00 OP

ARGUMENTS

As detailed in the Petition and summarized in the Decision of the Petitions Office, the inventor herein (Charles E. Miller, now deceased) was the owner of and on December 10, 1992 assigned the patent application to Prodigy Products, Inc. (the company). The application issued as a patent in 1994. Mr. Dennis Lumsden (Petitioner) purchased all assets of the company in 1995.

At the time of purchase in 1994, Petitioner was aware of the existence of the patent but was not given the Letters Patent and was not made aware of the requirement that maintenance fees had to be paid in 1997, 2001, and 2005. An office manager, who was with the company at the time of purchase by Petitioner, attended to payment of the 3 ½ year maintenance fee but did advise Petitioner of the requirement of yet further maintenance fees. Petitioner never saw correspondence from Patent Counsel advising of the need to pay maintenance fees, some seven and eleven years after the issuance of the patent.

Upon attempting to sell the company, the prospective buyers alerted Petitioner to the fact that the patent had expired.

Promptly thereafter, Petitioner sought out and contacted the below signed Patent Counsel to determine what steps were needed to be taken herein in order to reinstate the patent. Thereafter, the above Petition to accept an unavoidably delayed payment of maintenance fee in an expired patent was filed.

The standard for "unavoidable delay" is the "reasonably prudent person" standard and must be decided on a "case-by-case basis, taking all of the factors and circumstances into account". Restated, the test for unavoidable delay is

whether the Petitioner exercised the care or diligence that is generally used by prudent and careful men in relation to their most important business.

Patent Counsel submits that Petitioner took reasonable steps to ensure the timely payment of the maintenance fees and the conduct herein meets the "unavoidable delay" standard.

In the situation herein, there was a failure of communication that was consistent, under the circumstances, with that degree of care exercised by prudent persons in accordance with their most important business. Petitioner's delay is submitted as being an unavoidable delay, as that term is used under the Patent Rules and cases decided thereunder.

Following issuance of the patent, Patent Counsel advised the office manager ("Sherma") of the company that the patent required payment of maintenance fees and indicated that these fees would be due at specified times in 1997, 2001, and 2005.

As noted in the "Affidavit of Dennis Lumsden", Petitioner has been a resident of Louisiana from the time of purchase of the company until the present. The company has from the time of purchase until the present been located in Michigan. The day-to-day affairs and operation of the company has been handled by personnel located in Michigan. Payment of bills for goods, services and the like were attended to by staff located in Michigan. The office manager ("Sherma") of the company oversaw the payment of the 3 ½ year maintenance fee.

Following his purchase, Petitioner reviewed the affairs of the company but was not made aware of the fact that an asset of the company (the patent) had to be maintained active by a fee that was payable some years later. For some inexplicable reason, the office manager apparently did not have in place a system that indicated a patent bill would come due and have to be paid some years later.

Although Patent Counsel had advised the company that maintenance fees were due, both at the time of patent issue and prior to the due date for payment of the 3 ½ year maintenance fee, Petitioner never saw such letters.

Sometime after payment of the 3 ½ year maintenance fee in 1997, the office manager ("Sherma") left the company. Although Patent Counsel was aware of the sale of the company, the name and location of the purchaser was not known and the name of a person to contact was not known. Not until August 2004 did patent counsel become aware of the name of the new owner and that the new owner was located in Louisiana and the facts of the matter herein.

Petitioner relied upon the company staff in Michigan to attend to day-to-day affairs and relied upon this staff to pay bills that became due. At the time of purchase, upon review of the matters then pending and review of the patent, Petitioner did all that was reasonable under the circumstances as regards maintaining the patent and paying the fees. A review of the printed copy of the patent did not place the Petitioner on notice to do more. Petitioner's reliance upon office staff to attend to new matters as they arose or request instructions from him as to what steps should be taken in any future matters was reasonable.

For some ten years no bills or actions have fallen through the gratings.

Petitioner acted promptly upon becoming aware that the patent had expired.

Petitioner acted reasonably under the circumstances and thus the failure to timely pay a maintenance fee is submitted as being "unavoidable" within the meaning of 35 USC 41 (c) and 37 CFR 1.378 (b)(3).

The Petitions Office suggests that the Letters Patent itself should have provided notice to the Petitioner that maintenance fees were due. As noted, Petitioner did not receive the Letters Patent, and the copy of the patent that Petitioner did receive did not place Petitioner on notice that a duplicate original should be requested.

The Petitions Office also suggests that *had petitioner been provided* with a copy of the Letters Patent upon acquiring the company, or *had he ordered a copy* from the Office, this requirement would have been clear to him.

This begs the question. Patent counsel disagrees with this proposition and submits that the Petitions Office contention is contrary to the "reasonably prudent man standard" required herein.

Petitioner did not have the original Letters Patent but a duplicate copy of the printed patent. There is no reason why the Petitioner would request a "new" original of the Letters Patent. If the Patent Office had printed this as a warning on the front face of an issued patent, people using the Patent Office web site or reviewing a copy of an issued patent, would be on notice as that a patent term may possibly be cut short.

The front face of a duplicate copy of an issued patent presents information to inform third parties of certain essentials regarding the patent. This is the document that the Petitioner had. The front face of the issued patent lists such information as the patent number, the inventor(s), the assignee (if any), the filing date, and the issue date of the patent. The issue date on the front face of a printed copy of an issued suggests a maximum term of the issued patent.

Additionally, the front face of an issued patent indicates, where appropriate, adjustments in the term of the issued patent. For example: (a) "subject to any disclaimer this patent is extended or adjusted under 35 USC 154(b) by (~) days"; or (b) "this patent is subject to a terminal disclaimer."

The front face of an issued patent does not indicate that the patent term is subject to the payment of maintenance fees, nor does accessing the patent on the PTO website afford such information. Only a PTO-website savvy person can navigate the website to obtain the requisite information

The front face of a duplicate original of a printed patent does not include a warning that the reader should look elsewhere for additional important information regarding the term of a patent. A reasonably prudent man would not necessarily search for problems where they are not indicated.

The word "unavoidable" is applicable to ordinary human affairs and requires no more or greater care 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 as are*

usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies or instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. (emphasis supplied herein) In re Katrapat, AG, 6 USPQ 2d 1863, 1866 (Comm'r. 1988) (quoting the cases relied on by the Petitions Office, viz., Ex parte Pratt, 1877 Dec. Comm'r. Pat. 31, 32 - 33 (Comm'r. 1887); In re Matullath, 38 App. D. C. 497, 514-515 (1912); Winkler v. Ladd., 221 F. Supp. 550, 552, 138 USPQ 666, 667-668 (D.D.C. 1963); aff'd 143 USPQ 172, 172 (D.D.Cir. 1964). See also Ex parte Henrich, 1913 Dec. Comm'r. Pat. 139, 141 (Comm'r. Pat. 1913) (delay in responding to Office action due to docketing error held unavoidable in view of counsel's elaborate record system for keeping track of pending applications and employment of all reasonable checks that could be required for preventing such errors.) In the many years Petitioner was the owner of the company, the company's system was effective in keeping track of all bills that came due. The record system prevented items to be handled from falling through the cracks.

In sum, it is respectfully submitted that the "unavoidable delay" standard is a "reasonable person standard", i.e., did the Petitioner act reasonably but there was a delay nonetheless.

CONCLUSION

The Petitioner herein acted reasonably, relying on worthy and reliable employees, and such other means as are usually employed in such business. Unexpectedly, however, through unforeseen fault or imperfection in these

agencies and instrumentalities, as outlined under the facts hereinabove, there occurred a failure. Inexplicably, and prior to leaving the company, the office manager at the company apparently neglected to properly see to it that future maintenance fees were paid. Under Katrapat AG, such failure may be said to be unavoidable.

Upon finding that there was such a failure, Petitioner promptly took steps to rectify and/or correct the failure and pay a required maintenance fee.

Patent Counsel requests that the delayed payment of the maintenance fee be accepted and the now expired patent be activated.

Although no other fee is believed due for entry of this Petition, the Patent Office is authorized to charge Deposit Account 50 - 2815 for any additional fee to enter this Paper.

A "Change of Correspondence Address Form (PTO/SB/122)" to change the address of record was filed February 17, 2005.

As advised in the Decision, Patent Counsel specifically requests that a Treasury check be prepared and returned to Patent Counsel (with the name and address as below listed) in the amount of $465.00, to cover (a) a $400.00 petition fee (37 CFR 1.137(b)) and a $65.00 statutory disclaimer fee.

Respectfully submitted,

Arnold S. Weintraub

Arnold S. Weintraub, Reg. 25523
The Weintraub Group, P.L.C.
32000 Northwestern Highway, Suite 240
Farmington Hills, MI 48334
(248) 865-9430

Dated: April 13, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC134
APR 1 8 2005
PATENT & 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

ARNOLD S. WEINTRAUB
WEINTRAUB, DUROSS & BRADY
30200 TELEGRAPH ROAD
SUITE 200
BINGHAM FARMS MI 48025

COPY MAILED

FEB 1 4 2005

OFFICE OF PETITIONS

In re Application of
Charles E. Miller
Application No. 07/967,265
Patent No. 5,275,470
Filed: October 27, 1992
Issue Date: January 4, 1994
Title: SCRAPING DEVICE FOR POWERED STONE FLOOR DRESSING UNIT

DECISION ON PETITION
UNDER 37 C.F.R. §1.378(B)

This is a decision on the petition filed January 14, 2005, pursuant to 37 C.F.R. §1.378(b)[1], to revive the above-identified application.

The patent issued on January 4, 1994. The grace period for paying the 7½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on January 4, 2002, with no payment received. Accordingly, the patent expired on January 4, 2002.

With the instant petition, petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, along with the 7 ½ year maintenance fee.

[1] Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. §1.378(b) must include:

(1) The required maintenance fee set forth in 37 C.F.R. §1.20 (e) through (g);
(2) The surcharge set forth in 37 C.F.R. §1.20(i)(1), and;
(3) 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.

Petitioner has also submitted a $400 petition fee, a $65 fee associated with the filing of a statutory disclaimer, and a petition under 37 C.F.R. §1.137(b) along with the associated petition fee. None of these submissions are appropriate, and as such, the petition under 37 C.F.R. §1.137(b) will not be processed.

In regards to the fees, Petitioner should request that a Treasury check be prepared upon renewed petition. At which time, the renewed petition will either be granted or denied, and a Treasury check will be prepared. Alternatively, if Petitioner decides against filing a renewed petition, Petitioner may submit a request for a refund to the Office of Finance, at the address listed at the bottom of page 5 of this decision.

Petitioner has met the first and second requirements above.

The third requirement above will be discussed below.

The standard

35 U.S.C. §41(c)(1) states:

> The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay[2] is shown to the satisfaction of the Director to have been unavoidable.

§1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 C.F.R. §1.137(a). This is a very stringent standard. 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[3].

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account."[4] Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[5]

---

2 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. §1.378(b).

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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

4 Smith v. Mossinghoff, 671 F.2d at 538, 213 U.S.P.Q. at 982.

5 Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

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. 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 C.F.R. §1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Furthermore, 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. Thus, in support of an argument that the delay in payment was unavoidable, evidence is required that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid.[6]

Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[7]

Portions of the Code of Federal Regulations and the MPEP relevant to the abandonment of this application

37 CFR 1.362. Time for payment of maintenance fees, states, in part:

(a) Maintenance fees as set forth in § § 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
  (1) 3 years through 3 years and 6 months after grant for the first maintenance fee,
  (2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and
  (3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:
  (1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
  (2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the

---

6 See MPEP 2590 (Manual of Patent Examining Procedure, Rev, Aug. 1, 2001).

7 See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, Petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

second maintenance fee, and

(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

MPEP 2515 Information Required for Submission of Maintenance Fee Payment states, in part:

If a patent expires because the maintenance fee and any necessary surcharge have not been paid in the manner required by 37 CFR 1.366, the patentee could proceed under 37 CFR 1.378 (see MPEP § 2590), if appropriate, or could file a petition under 37 CFR 1.377 (see MPEP § 2580) within the period set therein seeking to have the maintenance fee accepted as timely even though not all of the required identifying data was present prior to expiration of the grace period

2575 Notices

Under the statutes and the regulations, the Office has no duty to notify patentees when their maintenance fees are due. It is the responsibility of the patentee to ensure that the maintenance fees are paid to prevent expiration of the patent. The Office will, however, provide some notices as reminders that maintenance fees are due, but the notices, errors in the notices or in their delivery, or the lack or tardiness of notices will in no way relieve a patentee from the responsibility to make timely payment of each maintenance fee to prevent the patent from expiring by operation of law. The notices provided by the Office are courtesies in nature and intended to aid patentees. The Office's provision of notices in no way shifts the burden of monitoring the time for paying maintenance fees on patents from the patentee to the Office.

Application of the standard to the current facts and circumstances

Assignment records show that on December 10, 1992, the inventor assigned this application to a company by the name of Prodigy Products, Inc. (the company). With the instant petition, Petitioner has asserted that he purchased all assets of the company in 1995. Petitioner was aware of the existence of this patent, although he states that he was not given the Letters Patent, and was not made aware of the requirement to submit maintenance fees in a timely manner. Petitioner explains that the 3½ year maintenance fee was submitted by the company's former office manager. Upon attempting to sell the company, the prospective buyers discovered that this patent had expired, and alerted Petitioner to this fact.

Petitioner's explanation of the delay has been considered, and it has been determined that it fails to meet the standard for acceptance of a late payment of the maintenance fee and surcharge, as set by 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3). The period for paying the 7½ year maintenance fee without the surcharge extended from January 4, 2001 to July 4, 2001 and for paying with the surcharge from July 5, 2001 and January 4, 2002. Thus, the delay in paying the 7 ½ year

maintenance fee extended from January 4, 2002 at midnight to the filing of the instant petition on January 14, 2005.

First, the lack of knowledge of the requirement to pay a maintenance fee cannot be used to establish unavoidable delay, as it is solely the responsibility of the patentee to assure that the maintenance fees are submitted in a timely manner.

Secondly, the Letters Patent itself should have provided notice to the Petitioner that maintenance fees were due. Had Petitioner been provided with a copy of the Letters Patent upon acquiring the company, or had he ordered a copy from the Office, this requirement would have been clear to him. It is clear that Petitioner invested neither the time, the effort, nor the relatively negligible expense in obtaining a copy from the Office. Since Petitioner never attempted to review this important business asset, he is unable to subsequently assert that he treated his patent as his most important business, and as such, cannot meet the requirement imposed by Pratt referred to above.

Finally, the establishment of unavoidable delay requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Since it is clear that no steps were in place for ensuring that the maintenance fee would be submitted in a timely manner, the granting of this petition is precluded.

It should be noted that Petitioner has requested that a copy of the notice of abandonment be sent to him. During the application stage, this application never went abandoned. As such, no notice of abandonment was ever prepared or sent.

CONCLUSION

In view thereof, the petition must be **DISMISSED**.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $130 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiencies noted above.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington DC 20231. A copy of the last decision rendered should accompany the request for refund).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. 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[8], hand-delivery[9], or facsimile[10].

The application file will be retained in the Office of Petitions for two (2) months.

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 unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: ARNOLD S. WEINTRAUB
WEINTRAUB, DUROSS & BRADY
32000 NORTHWESTERN HIGHWAY
SUITE 240
FARMINGTON HILLS, MI 48334

---

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
10 (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, which could be as much as one month.

UNITED STATES 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. 6912469
Issue Date: June 28,2005
Application No. 09846985
Filed: May 1,2001
Attorney Docket No. DFTR 112

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 10,2009 . 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.

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)
6912469	2005-06-28	09846985	2001-05-01	DFTR 112

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	/Kenneth J. Cool - Reg. No. 40,570/	Date (YYYY-MM-DD)	2009-08-10
Name	Kenneth J. Cool	Registration Number	40570

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.

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/15/04

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 09/846,989

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Inventors and Drawing

Eva James
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:

Glenn Caldarola
Supervisory Patent Examiner
Technology Center 1700

1764
Art Unit

SPE

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

APR 2 0 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Josephine E. LOMETILLO et al.

Confirmation No.: 3913

Patent No.: 6,713,101 B2

Application No.: 09/846,989

Patent Date: March 30, 2004

Filing Date: May 1, 2001

For: FROZEN DESSERT NOVELTY AND METHOD FOR ITS PREPARATION

Attorney Docket No.: 88265-4031

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APR 2 2 2004
of Correction

Sir:

Patentees hereby respectfully request the issuance of a Certificate of Correction in connection with the above-identified patent. The corrections are listed on the attached Form PTO-1050, submitted in duplicate. The corrections requested are as follows:

On the title page at item [75] Inventors, please correct the name and residence address of the second-named inventor "Singhachai Surintranspanot, Dublin, OH (US)" to -- -- **Singhachai Surintrspanont, Bangkok, (TH)** --. Support for this correction can be found on the Supplemental Declaration filed September 29, 3003.

OK
NB
3/7/07

Also, patentees submit herewith two (2) sheets of formal drawings for Figs. 1-6 to substitute for the drawings that were printed in the patent. The drawings printed in the patent are the informal drawings that were initially filed with the application on May 1, 2001. On July 16, 2001, however, applicants filed two (2) sheets of formal drawings for Figs. 1-6. A copy of the Submission of Formal Drawings is attached hereto along with a copy of the date-stamped postcard receipt from the Patent Office. It is submitted that the formal drawings that were timely and properly submitted during prosecution of the application should be presented with the issued patent.

Furthermore, it is respectfully submitted that a certificate of correction is not appropriate to make this correction. Instead, patentees respectfully request that the Patent Office issue a corrected patent in lieu of the certificate of correction as a more appropriate form for presenting the formal drawings in the patent. In addition, it is requested that the re-printed patent should be made at no cost to patentee.

As all of the requested changes are for errors that appear to have been made by the Patent Office, no fee is believed to be due for this request. Should any fees be required, however, please charge such fees to Winston & Strawn LLP Deposit Account No. 50-1814. Please issue a corrected patent or Certificate of Correction in due course.

Respectfully submitted,

4/20/04

Date

Allan A. Fanucci, Reg. No. 30,256

WINSTON & STRAWN LLP
Customer No. 28765

202-371-5904

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,713,101 B2
DATED: March 30, 2004
INVENTORS: Lometillo et al.

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 [75] Inventors, change "Singhachai Surintranspanot, Dublin, OH (US)" to
-- **Singhachai Surintrspanont, Bangkok (TH)** --.

Replace Figs. 1-6 with the following figures:

1/2

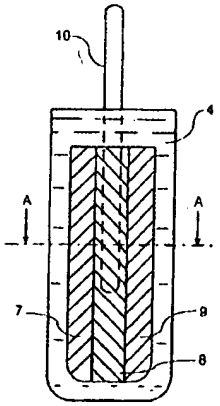


FIG. 1

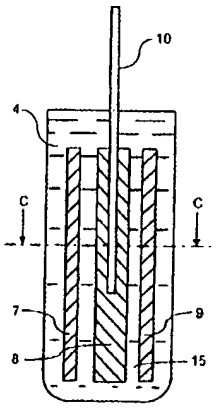


FIG. 4

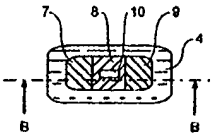


FIG. 2

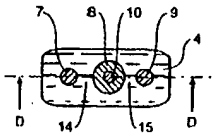


FIG. 5

OK
NB
3/7/07

APR 22 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,713,101 B2
DATED: March 30, 2004
INVENTORS: Lometillo et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

2/2

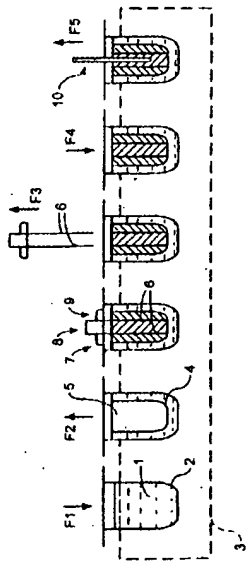


FIG. 3

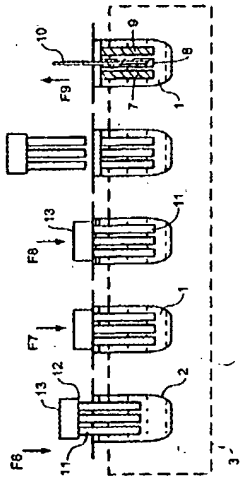


FIG. 6

OIC
NB
3/7/07

APR 2 2 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,713,101 B2
DATED: March 30, 2004
INVENTORS: Lometillo et al.

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 [75] Inventors, change "Singhachai Surintranspanot, Dublin, OH (US)" to
-- **Singhachai Surintrspanont, Bangkok (TH)** --.

Replace Figs. 1-6 with the following figures:

OK
NB
3/7/07

1/2

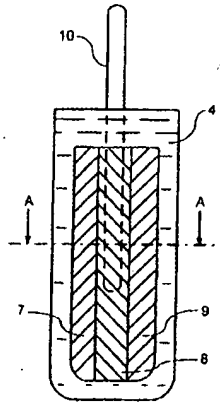


FIG. 1

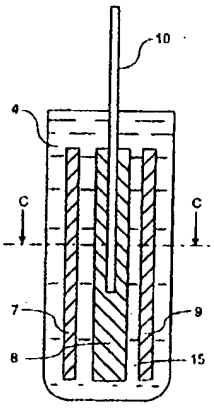


FIG. 4

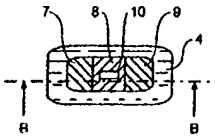


FIG. 2

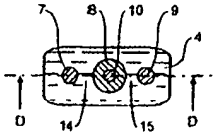


FIG. 5

APR 22 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,713,101 B2
DATED: March 30, 2004
INVENTORS: Lometillo et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

2/2

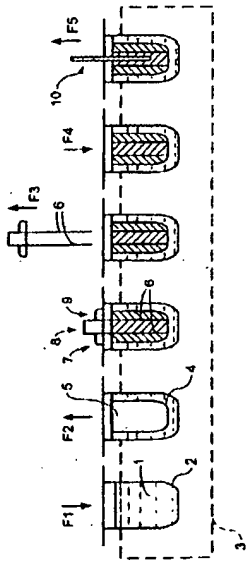


FIG. 3

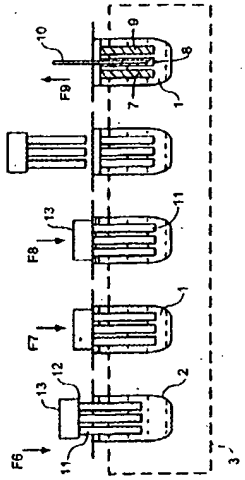


FIG. 6

OIC
NS
3/7/07

APR 22 2004

US006713101B2

(12) **United States Patent**
Lometillo et al.

(10) **Patent No.: US 6,713,101 B2**
(45) **Date of Patent: Mar. 30, 2004**

(54) **FROZEN DESSERT NOVELTY AND METHOD FOR ITS PREPARATION**

(75) Inventors: **Josephine E. Lometillo**, Hillard, OH (US); **Singhachai Surintranspanot**, Dublin, OH (US)

(73) Assignee: **Nestec S.A.**, Vevey (CH)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 273 days.

(21) Appl. No.: **09/846,989**

(22) Filed: **May 1, 2001**

(65) **Prior Publication Data**

US 2002/0164403 A1 Nov. 7, 2002

(51) **Int. Cl.**[7] **A23G 3/00**; A23G 9/00

(52) **U.S. Cl.** **426/91**; 426/100; 426/249; 426/68; 426/565; 426/576; 426/578

(58) **Field of Search** 426/91, 100, 249, 426/68, 565, 576, 578

OK
NS
3/7/07

(56) **References Cited**

U.S. PATENT DOCUMENTS

2,747,525	A		5/1956	Lund	107/54
4,219,581	A	*	8/1980	Dea et al.	426/565
5,493,866	A	*	2/1996	Hotaling	62/66
6,187,365	B1	*	2/2001	Vaghela et al.	426/565
6,231,901	B1	*	5/2001	Sharkasi et al.	426/101
6,379,724	B1	*	4/2002	Best et al.	426/68
6,399,134	B1	*	6/2002	Best et al.	426/565
6,461,653	B1	*	10/2002	Cox	426/88
6,503,548	B1	*	1/2003	Daniel et al.	426/249

FOREIGN PATENT DOCUMENTS

DE	39 09 317	A1	10/1990
GB	692701		6/1953
GB	917344		2/1963
GB	954113		4/1964
JP	57155953		9/1982
WO	WO 93/21776	*	11/1993
WO	WO 94/06305		3/1994

* cited by examiner

Primary Examiner—N. Bhat
(74) *Attorney, Agent, or Firm*—Winston & Strawn LLP

(57) **ABSTRACT**

A frozen dessert novelty which is a water ice molded confection product that includes a thin translucent shell and a multi-colored core which is encased into the shell and which is visible in the product before and during consumption, and a process for preparing it. The product is mounted on a stick to facilitate handling and eating.

19 Claims, 2 Drawing Sheets

Surintrspanont, Bangkok (TH)

OIPE JC98
APR 20 2004
PATENT & TRADEMARK OFFICE

Express Mail No. EH 803540430 US
Dated Mailed: July 16, 2001
Application of: J. LOMETILLO et al.
Application No.: 09/846,989
Filed: May 1, 2001
For: FROZEN DESSERT NOVELTY AND METHOD FOR ITS PREPARATION

Response to Notice to File Missing Parts of a NonProvisional Application
Executed Declaration;
Copy of Notice;
Executed Power of Attorney by Assignee; and
Executed Assignment with
Assignment Recordation Cover Sheet; and
Submission of Formal Drawings (Figs. 1-6)
File No. 88265-4031 Sender: AAF/dk

OIPE JC42
JUL 16 2001
PATENT & TRADEMARK OFFICE

APR 2 0 2004
TRADEMARK OFFICE

Express Mail No. EL 803540430US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: J. LOMETILLO et al.

Application No.: 09/846,989

Group Art Unit: 1761

Filed: May 1, 2001

Examiner:

For: FROZEN DESSERT NOVELTY AND METHOD FOR ITS PREPARATION

Attorney Docket No.: 88265-4031

SUBMISSION OF FORMAL DRAWINGS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants respectfully submit herewith two (2) sheets of formal drawings, corresponding to Figs. 1-6 and request entry of the enclosed drawings into the file of the above-identified application.

It is estimated that no fee is required for transmittal of the formal drawings. In the event a fee is required, please charge the required fee to Winston & Strawn Deposit Account No. 501-814. A copy of this sheet is enclosed.

Respectfully submitted,

Date: 7/16/01

Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN
200 Park Avenue
New York, New York 10166-4193

(212) 294-6700

Enclosures

600868.1

APR 2 0 2004

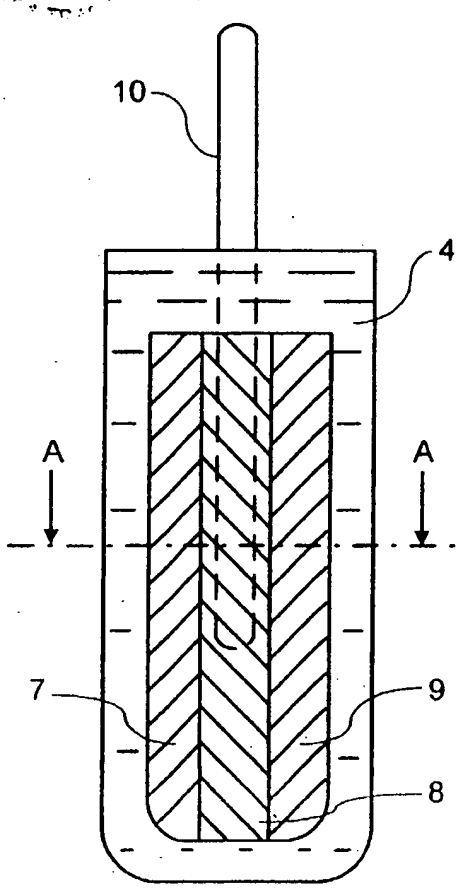


FIG. 1

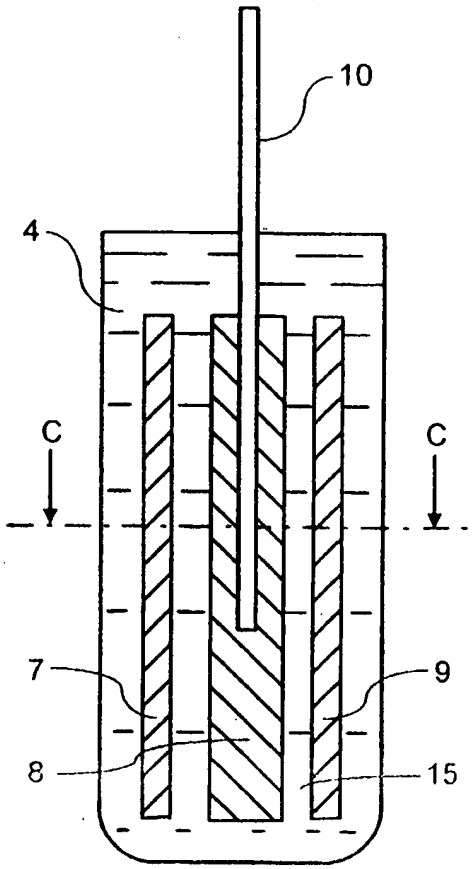


FIG. 4

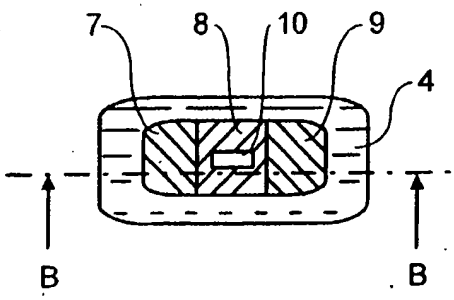


FIG. 2

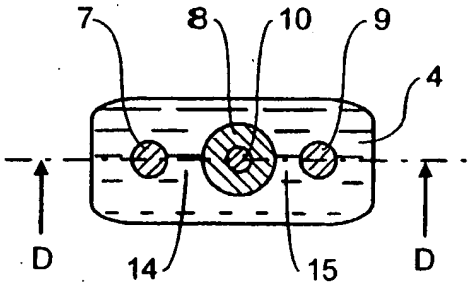


FIG. 5

APR 20 2004

OK
MB
3/7/07

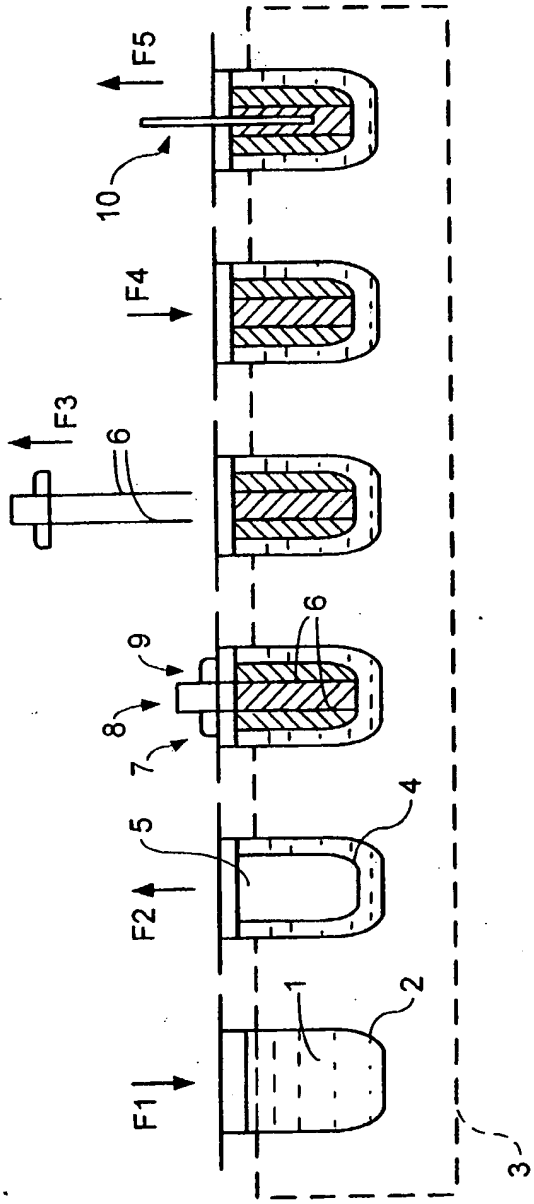


FIG. 3

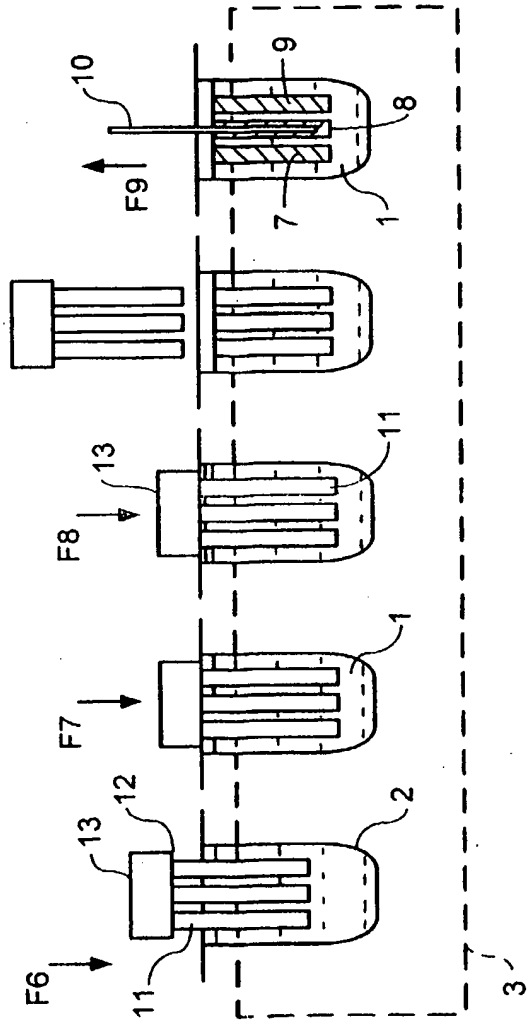


FIG. 6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAIL

Paper No. 4

APR 2 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS, L.L.P.
P.O. BOX 778
Berkeley, CA 94704-0778

In re Application of:
Wong et al..
Application No.: 09/847,005
Filed: May 02, 2001
For: PAGING METHOD AND APPARATUS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed March 18, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All the listed attorney(s) in the petition are withdrawn from the record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

The application file is being returned to the 2600 Technology Center's central files to await an Office action by the Examiner.

Reinhard J. Eisenzopf
For Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Mark E. Miller
Fliesler Dubb Meyer & lovejoy, LLP
Four Embarcadero Center, Fourth Floor
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 12

MAILED

JUN 06 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THOMAS A. WARD
FLIESLER DUBB MEYER & LOVEJOY LLP
FOUR EMBARCADERO CENTER
FOURTH FLOOR
SAN FRANCISCO, CA 94111-4156

In re Application of:
Wong et al.
Application No. 09/847,005
Filed: May 2, 2001
For: NETWORK COMMUNICATION SYSTEM USING ASSIGNED TIMESLOTS FOR NODES TO REQUEST A BANDWIDTH AMOUNT FOR DATA TRANSMISSION WITH RESULTING GRANT FOR THE NODE TO TRANSMIT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed on May 2, 2003 under MPEP 708.02 (IV), applicant's age.

A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a drivers' license, or simply a statement by the applicant. No fee is required.

The petition includes a statement and a copy of inventor Gabriel K. Wong's driver's license indicating that he is more than sixty five years old. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application will be forwarded to the examiner for expedited action.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Michael R. Friscia
WOLFF & SAMSON
5 Becker Farm Road
Roseland, NJ 07068-1776

MAIL

SEP 04 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Dhadesugoor R. Vaman, et al.
Application No. 09/847,039
Filed: May 1, 2001
For: METHOD AND APPARATUS FOR PROVIDING END-TO-END QUALITY OF SERVICE IN MULTIPLE TRANSPORT PROTOCOL ENVIRONMENTS USING PERMANENT OR SWITCHED VIRTUAL CIRCUIT CORRECTION MANAGEMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 9, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bill Baker
CFO OF MEGAXESS
MEGAXESS, INC.
Trevion II, Suite 206
12800 Middlebrook Road
Germantown, MD 20874

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

COPY MAILED

SEP 05 2003

OFFICE OF PETITIONS

In re Application :
Leadbetter et al :
Application No. 09/847,042 : DECISION ON APPLICATION
Filed: May 1, 2001 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. P-088-R :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed May 7, 2003. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from fifty-one (51) days to one hundred five (105) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. The adjustment has been corrected to one hundred seven **(107)** days (rather than the requested one hundred five days).

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance was one hundred seven **(107)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 24, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 51 days. Applicants timely[1] submitted the instant application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance was one hundred five (105) days. Applicants state that a reply to the Office action mailed October 16, 2002 was timely filed by facsimile transmission on January 15, 2003. However, the response was not entered by the Office. Applicant, on February 11, 2003 and again on March 6, 2003, submitted duplicate copies of the reply. The Office entered the reply on March 11, 2003, and using the March 11, 2003 date, reduced the patent term adjustment by 54 days. In support thereof, applicants submit a copy of their unit's report confirming transmission of the reply on January 15, 2003 (as well as, copies of the reports for the duplicates sent February 11, 2003 and March 6, 2003).

---

[1] PALM records indicate that the Issue Fee payment was received in the Office on May 14, 2003.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer and that there were no circumstances in the prosecution of the application which constituted failure to engage in reasonable efforts to conclude processing or examination (other than a 2 day delay in filing the response to a Notice to File Missing Parts mailed July 2, 2001).

The Office initially determined a patent term adjustment of fifty-one (51) days based on an adjustment for PTO delay of one hundred seven (107) days pursuant to 37 CFR 1.703(a)(1) reduced by a total of fifty (56) days pursuant to 37 CFR 1.704(b) for applicants' delay of two (2) days in replying to the Notice to File Missing Parts of Application mailed July 2, 2001, and of fifty-four (54) days in replying to the non-final Office action mailed October 16, 2002. Applicants neither contest the calculation of Office delay or the reduction of two (2) days.

A review of the application history reveals that the calculation of Office delay is correct[2]; however, both calculations of applicant delay are incorrect.

Applicants' arguments as to the timely filing of the response to the non-final Office action are well-taken. Applicants' evidence is consistent with that required under 37 CFR 1.8(b) to show timely filing by facsimile transmission. In fact, the record supports a conclusion that the amendment, resubmitted on March 11, 2003, was accepted as timely filed on January 15, 2003 pursuant to 37 CFR 1.8(b). Ordinarily, the benefit of a certificate of mailing or transmission is not considered in calculating patent term adjustment. See § 1.704(f). However, under the circumstances, the January 15, 2003 date should have been used for the date of response in the PALM system and in calculating any patent term adjustment. Thus, the filing of the reply to the non-final Office action occurred within three months of the mail date of the Office action, and did not constitute a failure to engage in reasonable efforts to conclude prosecution or examination within the meaning of § 1.704(b). Accordingly, applicants should not have been assessed a fifty-four (54) day reduction of patent term adjustment.

Likewise, a review of the record reveals that applicants did not delay in filing a reply to the Notice to File Missing Parts of Application mailed July 2, 2001. A complete and proper reply was filed on August 6, 2001, not October 4, 2001. As this was within three months of the mail date of the Notice, this filing also did not constitute a failure to engage in reasonable efforts to conclude prosecution or examination within the meaning of § 1.704(b). Accordingly, applicants should not have been assessed a further two (2) day reduction of patent term adjustment.

---

[2] The Office first mailed an action under 35 U.S.C. 132 on October 16, 2002, fourteen months and 107 days after the filing date of the application on May 1, 2001 (beginning July 2, 2002 and ending October 16, 2002).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred seven (107) 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 in a timely manner.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Thursday

PALM INTRANET

Date: 9/4/2003
Time: 14:33:12

PTA Calculations for Application: 09/847042			
Application Filing Date:	05/01/2001	PTO Delay (PTO):	107
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	107
PTO Delay Adjustment:	56		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
29	09/04/2003	ADJUSTMENT OF PTA CALCULATION BY PTO	56		
20	04/24/2003	MAIL NOTICE OF ALLOWANCE			
19	04/24/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
18	04/24/2003	NOTICE OF ALLOWABILITY			
17	01/14/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	03/24/2003	DATE FORWARDED TO EXAMINER			
15	03/11/2003	RESPONSE AFTER NON-FINAL ACTION		54	14
14	10/16/2002	MAIL NON-FINAL REJECTION	107		-1
13	10/16/2002	NON-FINAL REJECTION			
12	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	09/04/2002	CORRESPONDENCE ADDRESS CHANGE			
10	03/06/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/31/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/26/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/10/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/04/2001	APPLICATION DISPATCHED FROM OIPE			
5	10/04/2001	APPLICATION IS NOW COMPLETE		2	4
4	07/02/2001	INCOMPLETE APPLICATION UNDER RULE 53(B) - FILING DATE ASSIGNED			
3	06/30/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/09/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/01/2001	INITIAL EXAM TEAM NN			

RECEIVED
OCT 2 9 2003
OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
VA 22313-1450
www.uspto.gov

Paper No. 16

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

Certificate
APR 0 8 2004
of Correction

COPY MAILED
MAR 3 0 2004
OFFICE OF PETITIONS

In re Patent No. 6,635,618 Leadbetter et al Issue Date: October 21, 2003 Application No. 09/847,042 Filed: May 1, 2001 Attorney Docket No. P-088-R	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. § 1.705)," filed October 24, 2003. Patentees request that the patent term adjustment indicated on the patent be corrected from eighty-eight (88) days to one hundred forty-four (144) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred forty-four **(144)** days.

On October 21, 2003, the above-identified application matured into U.S. Patent No. 6,635,618. The instant request for reconsideration was timely filed within 30 days of the date the patent issued. See § 1.705(d).

The Patent issued with a revised Patent Term Adjustment of 88 days. Patentees contend that the patent should have issued with a revised PTA of 144 days. Patentees state that pursuant to the Decision on Application for Patent Term Adjustment mailed September 5, 2003, the application is entitled to 107 days of patent term adjustment pursuant to § 1.703(a)(1). Patentees further state that, as shown in PAIR, the application became entitled to an additional period of adjustment of 37 days pursuant to 37 C.F.R. § 1.703(a)(6). Specifically, the issue fee was paid and all outstanding requirements were satisfied on May 14, 2003; however, the patent did not issue until October 21, 2003, which is 37 days after the day that is four months after the date the issue fee was paid.

A review of the application history confirms that patentees characterization of the basis for and amounts of the adjustments and reductions of patent term in this patent are correct.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one hundred forty-four (144) days.

Patentee's submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by 144 days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Kery Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Raymond A. Miller
Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

COPY MAILED
DEC 1 6 2003
OFFICE OF PETITIONS

In re Application of	:	
Philip Stark et al.	:	
Application No. 09/847,055	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. 126381.620	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 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 Restriction mailed December 4, 2002, which set a shortened statutory period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 5, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The patent file is being forwarded to Technology Center AU 1733.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

COPY MAILED

AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of Martin Linsell Application No. 09/847,060 Filed: May 1, 2001 Attorney Docket No. P-090-R	: : : : :	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed April 20, 2004. Applicant requests that the patent term adjustment be corrected from four hundred fifty-eight (458) days to five hundred sixty-six (566) days. Applicant requests reconsideration solely on the basis that the Office has failed to issue a patent within 3 years of the actual filing date of the application.

A decision on the request for reconsideration of the patent term adjustment indicated in the patent is being held in abeyance until after the actual patent date.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment indicated in the patent on this basis. Applicants may seek such reconsideration without payment of an additional fee.

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 (703) 305-0309.

Kery Fries
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.:20050413

DATE : April 13, 2005

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 6,831,150 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

JON WEBER
SUPERVISORY PATENT EXAMINER

SPE: Jon P. Weber **Art Unit** 1653

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,831,150 B2

DATED : December 14, 2004

INVENTOR(S): Martin S. LINSELL

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Col. 29, line 28, replace "$-NR^cR^c$, or $-O-R^c$;" with -- $-NR^cR^e$, or $-O-R^e$; --; and
line 34, replace $-CH(R^c)-NR^cR^c$," with -- $-CH(R^c)-NR^cR^e$, --;
Col. 30, line 57, replace "R^c is a saccharide group;" with
-- R^e is a saccharide group; --;
Col. 31, line 3, replace "$-NR^cSO_2NR_c-$," with -- $-NR^cSO_2NR^c-$, --; and
line 47,replace "$-CH_2-NR^cR^c$ or $-CH_2-NR-R^a-$" with
-- $-CH_2-NR^cR^e$ or $-CH_2-NH-R^a-$ --.
Col 32, line 67, replace "un aldehyde or ketone, a suitable base," with
-- an aldehyde or ketone, a base, --.
Col. 33, line 34, replace "$-NR^cR^c$, or $-O-R^c$;" with -- $-NR^cR^e$, or $-O-R^e$; --;
line 36, replace $-CH(R^c)-NR^cR^c$," with -- $-CH(R^c)-NR^cR^e$, --;
line 37, please replace "$-CH(R^c)-NR^cR^a-Y-R^b-(Z)$;" with
-- $-CH(R^c)-NR^c-R^a-Y-R^b-(Z)$; --
line 53, replace "R^c is a saccharide group;" with
-- R^e is a saccharide group; --;
line 57, replace "OC(O)-," with -- -OC(O)-, --; and
line 62, replace "$-NR^cSO_2NR_c-$," with -- $-NR^cSO_2NR^c-$, --.

MAILING ADDRESS OF SENDER: Jeffrey A. Hagenah, Esq.
Theravance, Inc
901 Gateway Boulevard
South San Francisco, CA 94080

PATENT NO. 6,831,150 B2

No. of additional copies

0

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.

FEB 11 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 No.

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

COPY MAILED

JUN 09 2005

OFFICE OF PETITIONS

In re Application of Martin Linsell Application No. 09/847,060 Filed: May 1, 2001 Attorney Docket No. P-090-R	: : : : :	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN PATENT (37 C.F.R. § 1.705)," filed January 5, 2005. Patentee requests that the patent term adjustment indicated in the patent be corrected from four hundred fifty-four (454) days to five hundred seventy-four (574) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred seventy-four **(574)** days.

On December 14, 2004, the application matured into U.S. Patent No. 6,831,150, with a revised patent term adjustment of 454 days. On January 5, 2005, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 574. Patentee disputes the reduction of 120 days for the filing of an Information Disclosure Statement (IDS) after the mailing of the notice of allowance. Patentee states that the IDS was originally filed prior to the mailing of the notice of allowance, and that a replacement copy was submitted on February 26, 2004 at the request of the examiner.

Having reviewed the record, it is concluded that patentee's argument is persuasive. The basis for the 120 day reduction is the refiling of the IDS on February 26, 2004. The Supplemental IDS is a true and accurate copy of the IDS evidenced to have been filed by applicant on February 12, 2002. Under the circumstances, the reduction of 120 days, pursuant to § 1.704(c)(10), is not warranted.

In view thereof, the patent should have issued with a patent term adjustment of five hundred seventy-four (574) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The decision mailed August 10, 2004 stated that applicant may seek reconsideration on the basis that the Office failed to issue the patent within 3 years without payment of an additional fee. Pursuant to § 1.705(d), patentee has sought reconsideration on another basis. § 1.705(d) requires payment of the fee set forth in § 1.18(e).

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 SEVENTY-FOUR (574)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

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

#18

Paper no. 18

MAILED

SEP 1 0 2003

Office of the Director
Group 3600

HENRY M. BEISNER
11904 TILDENWOOD DRIVE
ROCKVILLE MD 20852

In re Applications of Henry Beisner SERIAL NO. 09/847,093 FILED: May 2, 2001 FOR: ADAPTIVE FILTER TO REDUCE MULTIPATH	: : : : :	DECISION ON REQUEST FOR SUPERVISORY REVIEW UNDER 37 CFR §1.181

This is a decision on the request filed August 13, 2003 which was included as part of a response to a Final Rejection and is treated as a petition to exercise the supervisory authority of the Commissioner to assign a different examiner to application 09/847,093.

Applicant alleges that the examiner fails to follow proper examination procedure and is inadequately skilled to give a fair examination.

With regard to examination procedure, examiner appears to be attempting to follow the procedure set forth in MPEP 7.02.01 for Obviously Informal Cases.

With regard to the technological issues applicant raises regarding lack of examiner skill, it is noted that the examiner has attempted to respond to these in the advisory action mailed on August 26, 2003. For example, the examiner describes on page 2, in the third paragraph how " This objection was not based on the fact that elements such as 'analog to digital processing' and digital processing' are not understood." The content of the advisory action suggests that there may have been some misunderstanding of the examiner's intended position by applicant that the examiner has now attempted to remedy.

No abuse of discretion or inadequate skill on the part of the examiner has been convincingly demonstrated. Since no arbitrary or capricious behavior on the part of the examiner has been shown, the application will remain with the examiner of record.

The details of the arguments as to whether or not the rejections made by the examiner under 35 USC 112 are proper or not have not been addressed here as such arguments are properly decided on appeal and not on petition.

Accordingly, the petition is **DENIED**.

Donald T. Hajec, Director
Patent Technology Center 3600
(703) 308-4180

tht/snm: 9/2/03
SM

UNITED STATES 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.: 08-07

Paper No:__

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of	:	
Kaikuranta, et al.	:	DECISION
Application No. 09/847,142	:	
Filing Date: 2 May, 2001	:	
Attorney Docket No.: 297-010321-US(PAR)	:	

This is a decision on the papers filed on 12 September, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly following Petitioner's 18 November, 2004, filing of the Notice of Appeal (and fee), with reply due absent extension of time on or before 18 January, 2005;

---

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned by operation of law after midnight 18 January, 2005;
- the Office mailed the Notice of Abandonment on 11 September 2006;
- on 12 September, 2006, Petitioner filed the instant petition, recited that a reply was timely submitted, and provided a copy of that reply submitted over a 17 January, 2005, Certificate of Mailing, with the transmittal and a date-stamped (21 January, 2005) card evidencing receipt of the Appeal Brief and check in the amount of $500.00 at the Board of Patent Appeals and Interferences (BPAI).

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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §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 C.F.R. §1.10(c), (d), * (e), or (g) (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 under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R.

---

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> §1.8(b) and MPEP § 512. As stated in 37 C.F.R §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 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 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.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied showing requirement described above–and, thus, satisfied his burden herein.

CONCLUSION

Because it appears that Petitioner has not carried his burden in the instant matter, the instant petition under 37 C.F.R. §1.181 hereby is **granted** and the 11 September, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2600 to await the Examiner's Answer.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 21

KLARQUIST SPARKMAN LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

COPY MAILED

SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of
Burrows, et al.
Application No. 09/847,172
Filed: May 1, 2001
Attorney Docket No. 899-58137

DECISION ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed May 23, 2003 (Certificate of Mailing dated May 20, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on May 1, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The application is being forwarded to Technology Center 1600, Group Art Unit 1644, for consideration of the amendment filed May 27, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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)
6546947	2003-04-15	09847179	2001-05-02	ZENA-002

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	/markjrosen#56935/	Date (YYYY-MM-DD)	2007-04-18
Name	Mark J. Rosen	Registration Number	39822

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. 6546947
Issue Date: April 15,2003
Application No. 09847179
Filed: May 2,2001
Attorney Docket No. ACA-101US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 18,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 18,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

RECEIVED
CENTRAL FAX CENTER
JUN 0 3 2004
OFFICIAL

PTO/SB/83 (09-03)
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 AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/847,186
Filing Date	May 1, 2001
First Named Inventor	Costin
Art Unit	1732
Examiner Name	S. Stalcovici
Attorney Docket Number	TL/003003/SCH

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ the attorneys/agents associated with Customer Number 23,844

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

Approved
Jacqueline M. Stone, Director
Technology Center 1700

The reasons for this request are: Issues including client's ability to pay for fees and services.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

AUG 1 6 2004

2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm *or* Individual Name	Darryl Costin				
Address	Technolines, LLC				
Address	29300 Clemens Road, Ste. D				
City	Westlake	State	OH	Zip	44145
Country	USA				
Telephone				Fax	
Name	Scott C. Harris				
Signature	Scott Harris	Registration No.	32,030		
Date	6/4/04	Telephone No.	619 823-7778		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

BRIAN R COLEMAN
OPPENHEIMER WOLFF & DONNELLY
1400 PAGE MILL ROAD
PALO ALTO, CA 94304

COPY MAILED

NOV 29 2001

OFFICE OF PETITIONS

In re Application of	:	
Debby Hindus et al	:	DECISION GRANTING
Application No. 09/847,201	:	PETITION
Filed: May 2, 2001	:	
Attorney Docket No. 060231-302102	:	

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed September 11, 2001, requesting that the above-identified application be accorded a filing date of May 2, 2001, rather than the presently accorded filing date of May 3, 2001. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 2, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provide a copy of the Express Mail label, receipt no. EH772165343US. The same Express Mail label number appears on the copy of the original application transmittal letter submitted with the present petition. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "Washington Square Wash DC USPS" receipt stamp dated "May 2, 2001".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 2, 2001.

The petition is granted. A copy of the corrected Filing Receipt is enclosed.

No petition is required and none has been charged.

The application is being returned to Technology Center AU 2662 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Hindus et al. :
Application No. 09/847,201 : ON PETITION
Filed: May 2, 2001 :
Attorney Docket No. 60231-302102 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

A request to change the address of record signed by an attorney of record was filed on April 3, 2002. For unknown reasons the change of address was not entered for the application.

A non-final Office action was mailed to the incorrect address on September 8, 2004.

A reply to the Office action was not filed and the application became abandoned as of midnight on December 8, 2004.

A new power of attorney and change of address was filed May 5, 2005. The power of attorney and change of address was entered.

A Notice of Abandonment was mailed to a correct address September 7, 2005.

Upon review of *all* the facts and circumstances, the holding of abandonment will be withdrawn.

The Notice of Abandonment is hereby vacated.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $1,500 will be credited to petitioner's deposit account.

Technology Center 2613 will be informed of the instant decision so that the examiner may further consider the merits of the application in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
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

ERIC M. DOBRUSIN
DOBRUSIN & THENNISCH PC
401 SOUTH OLD WOODWARD AVENUE
SUITE 311
BIRMINGHAM, MI 48009

COPY MAILED

NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Michael J. Czaplicki et al :
Application No. 09/847,252 :
Filed: May 2, 2001 :
Attorney Docket No. 1001-053 :

ON PETITION

This is a decision on the petition, filed November 4, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 28, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1711 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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* r quest *in writing* that the pr vi usly paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 21

ERIC M. DOBRUSIN
DOBRUSIN & THENNISCH PC
SUITE 331
401 SOUTH OLD WOODWARD AVENUE
BIRMINGHAM MI 48009

COPY MAILED

JUN 0 4 2003

OFFICE OF PETITIONS

In re Application of
Michael J.Czaplicki et al
Application No. 09/847,252
Filed: May 2, 2001
Attorney Docket No. 1001-053

ON PETITION

This is a decision on the petition, filed by facsimile transmission on May 30, 2003, and supplemental by facsimile transmission on June 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 April 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) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

MAILED

APR 0 1 2009

OFFICE OF PETITIONS

In re Application of
Neil C. Singer et al.
Application No. 09/847,253
Filed: May 2, 2001
Attorney Docket No. 0162095-0030

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 March 12, 2009.

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 Sam Pasternack on behalf of all attorneys/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed to that of the first signing inventor and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Neil C. Singer
1 Quarter Mile Road
Armonk, NY 10504

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
09/847,253	05/02/2001	Neil C. Singer	0162095-0030

CONFIRMATION NO. 5037

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000035274523

Date Mailed: 04/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2009.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

Michael C. Gilchrist
Dorsey & Whitney, LLP
Suite 3900
801 Grand Avenue
Des Moines, IA 50309

COPY MAILED
DEC 2 3 2003
OFFICE OF PETITIONS

In re Application of
Lyn Rosenboom
Application No. 09/847,264
Filed: May 2, 2001
Attorney Docket No. 457009-2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 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 January 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 27, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3600 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL C. GILCHRIST
DORSEY & WHITNEY
SUITE 3900
801 GRAND AVENUE
DES MOINES, IA 50309

COPY MAILED

JUL 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Lyn Rosenboom	:	
Application No. 09/847,264	:	ON PETITION
Filed: May 2, 2001	:	
Attorney Docket No. 457009-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 16, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3671.

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. 24

GOWLING LAFLEUR HENDERSON LLP
ATTN: ARNE I. FORS
COMMERCE COURT WEST
SUITE 4900
TORONTO ON M5L 1J3 CA CANADA

COPY MAILED

SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Bill Cotton et al	:	
Application No. 09/847,297	:	ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. T8465046US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowability and the Notice of Allowance mailed September 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file will remain in the Office of Petitions to consider the petition under 37 CFR 1.78(a)(3) filed December 22, 2003 and the petition under 37 CFR 1.55(c) filed January 8, 2004.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 25

GOWLING LAFLEUR HENDERSON LLP
ATTN: ARNE I. FORS
COMMERCE COURT WEST
SUITE 4900
TORONTO, ON M5L 1J3
CANADA

COPY MAILED

SEP 15 2004

OFFICE OF PETITIONS

In re Application of	:
Bill Cotton et al	: DECISION ON PETITION
Application No. 09/847,297	: UNDER 37 CFR 1.78(a)(3)
Filed: May 3, 2001	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. T8465046US1	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed January 8, 2004 and August 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application, and under 35 U.S.C. § 119 for the benefit of a prior-filed foreign application.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the

> **(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 May 3, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCTapplication is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCTapplication was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120 . Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCTapplication satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to

---

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).

accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

> **(1)** the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[2]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, 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 May 3, 2001, which is after November 29, 2000 and intermediate prior-filed PCT Application No. PCT/CA00/00687 was filed on June 8, 2000, within 12 months of foreign Application No. 2279201, filed July 30, 1999 (the filing date of the foreign application to which benefit is now being claimed). On January 8, 2004, a declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is granted.

---

[2] The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, and the foreign priority claim, 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 instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 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.

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 1732 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/CA00/00687, filed June 8, 2000, and for consideration of the foreign priority claim under 35 U.S.C. § 119 for the benefit of Foreign Application No. 2279201, filed July 30, 1999.

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Ming C. Hao et al :
Application No. 09/847,390 : ON PETITION
Filed: May 2, 2001 :
Attorney Docket No. 10003407-1 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 19, 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 "Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 30, 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)). The reply submitted on March 8, 2003 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 15, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained, the above-identified application became abandoned on March 31, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(l); (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) for an application filed prior to June 8, 1995. This petition lacks item (3).

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

As to item (3), petitioner asserts that the delay was unavoidable due to the mailing of the Advisory Action beyond the six month statutory period for response.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As petitioner was advised in the Advisory Action of September 15, 2004, the amendment of March 8, 2004, did not place this application in *prima facie* condition for allowance. As the amendment did not place the application in *prima facie* condition for allowance, it is the petitioner's responsibility to take appropriate action to save the application from abandonment. Therefore, whether petitioner received an Advisory Action or not prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection or by filing a continuing application. Put simply, in an application subject to a final Office action, it is the petitioner's responsibility to timely file a Notice of Appeal (and fee) to avoid the abandonment of the application (or continuing application), unless the petitioner is informed in writing that the application is allowed prior to the expiration of the period for response to the final Office action. 37 CFR 1.116(b) clearly states that:

> "The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application ...from its condition as subject to appeal or to save the application from abandonment under § 1.135...."

As such, the abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a) where an applicant simply permits the maximum extendable statutory period for response to a final Office action to expire while awaiting a Notice of Allowance or other communication. However, delay resulting from a lack of knowledge of, or the failure to properly apply, the regulations and procedures before the Office is not unavoidable delay.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to

37 CFR 1.137(b) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Apr-05

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

COPY MAILED

APR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Hao et al. :
Application No. 09/847,390 :
Filed: 2 May, 2001 :
Atty Docket No. 10003407-1 :

ON PETITION

This is a decision on the petition under 1.137(b),[1] filed on 10 January, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 April, 2004, for failure to properly to the final Office action mailed on 30 December, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

obtained. On 8 March, 2004, an amendment after final rejection was filed. The amendment did not *prima facie* place the application in condition for allowance, however, and an Advisory Action was mailed on 15 September, 2004. On 18 October, 2004, petitioners filed a Notice of Appeal and fee, and on 19 October, 2004, a petition under 37 CFR 1.137(a) was filed. The petition was dismissed on 8 December, 2004. On 10 January, 2005, the present petition under 37 CFR 1.137(b) and an appeal brief and fee were filed.

The application is being referred to Technology Center 2166 for review of applicants' appeal brief.

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
WASHINGTON, D.C. 20231
www.uspto.gov

D'ANN RIFAI
SKJERVEN MORRILL MACPHERSON LLP
SUITE 300W
9600 GREAT HILLS TRAIL
AUSTIN, TX 78759

Paper No. 5

COPY MAILED

NOV 2 7 2001

OFFICE OF PETITIONS

In re Application of
Anthony, et al.
Application No.: 09/847,444
Filed: May 1, 2001
Attorney Docket No. DC-02827-A

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled "REQUEST FOR CORRECTED FILING RECEIPT," filed September 24, 2001 (certificate of mailing date September 19, 2001), requesting that the above-identified application be accorded a filing date of May 1, 2001, instead of the presently accorded date of May 2, 2001.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service, on May 1, 2001. In support, petitioners provided a copy of the Express Mail label, receipt no. EL803199018US, showing a Date-In of May 1, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with instant petition. Petitioners request that the application be accorded a filing date of May 1, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 1, 2001.

In view of the above, the petition is granted.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **May 1, 2001** and the mailing of a corrected filing receipt showing the filing date as May 1, 2001.

Telephone inquiries concerning this matter 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

June 23, 2003

Brian F. Drazich
Coudert Brothers
333 South Hope Street, 23rd Floor
Los Angeles, CA 90071

In re application of:
Clayton Jay Allen et al DECISION ON PETITION
Serial No.: 09/847,446
Filed: May 2, 2001
For: STEEL FRAME STRESS
REDUCTION CONNECTION

This is a decision on the petition received on April 21, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed July 2, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned September 5, 200l. The Notice of Abandonment was mailed on April 2, 2003.

On April 21, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice to File Corrected Application papers on July 2, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on July 2, 2001.

The petition is hereby Granted.

The application has been completed for release to Technology Center 3635.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN F. DRAZICH
COUDERT BROTHERS
333 SOUTH HOPE STREET, 23RD FLOOR
LOS ANGELES CA 90071

COPY MAILED

AUG 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Clayton J. Allen et al	:	
Application No. 09/847,446	:	DECISION GRANTING PETITION
Filed: May 2, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6327-1018	:	

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 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 June 16, 2004, 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.

This matter is being referred to Technology Center AU 3635.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KENNETH A. NELSON
2 NORTH CENTRAL AVE., SUITE 2200
PHOENIX, AZ 85004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Roland M. MORLEY, et al :
Application No. 09/847,447 : ON PETITION
Filed: May 2, 2001 :
Attorney Docket No. 042390.P10840 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 30, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/847,447	Applicant(s) MORLEY ET AL.	
	Examiner Karabi Guharay	Art Unit 2889	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 December 2007 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 3 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: _____.

/Karabi Guharay/
Primary Examiner, Art Unit 2889

Continuation of 3. NOTE: PROPOSED AMENDMENTS DO NOT PLACE THE CLAIMS IN CONDITION FOR ALLOWABLE.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELBERT J. BERNARD
BARNARD & PAULY, P.S.
P.O. BOX 58888
SEATTLE, WA 98138-1888

COPY MAILED

NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerrit J. Van den Engh	:	
Application No. 09/847,466	:	ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. UW - VAN DEN ENGH	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue/publication fees in a timely manner in reply to the Notice of Allowance mailed December 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 15, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES 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.: 07-06

Paper No: __

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Shi, et al.	:	
Application No. 09/847,474	:	DECISION
Filing Date: 2 May, 2001	:	
Attorney Docket No.: 990517	:	

This is a decision on the petition filed on 11 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 January, 2005, with reply due absent extension of time on or before 7 April, 2005;
- the instant application went abandoned after midnight 7 April, 2005;
- the Office mailed a Notice of Abandonment 10 August, 2005;
- on 11 May, 2006, Petitioner filed the instant petition (with fee), reply in the form of an amendment, and made the statement of unintentional delay–while Counsel Howard H. Seo (Reg. No. 43106) states that the petition was filed within one year of abandonment,

the facts clearly evidence that the petition was filed more than thirteen (13) months after abandonment and nine (9) months after Notice thereof.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) &

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

(b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 11 May, 2006) does not necessitate a finding that the delay between midnight 7 April, 2005 (date of abandonment), and 11 May, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Shi and Johannsen and Counsel Howard H. Seo (Reg. No. 43106) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 2600 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

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

BRUCE B. BRUNDA
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

COPY MAILED
DEC 08 2003
OFFICE OF PETITIONS

In re Application of	:	
Richardson, et al.	:	
Application No. 09/847,475	:	ON PETITION
Filed: May 2, 2001	:	
Attorney Docket No. NORTH-394A/A-2243	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed July 6, 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 September 7, 2001. A Notice of Abandonment was mailed on October 14, 2003.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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

The Boeing Company
P.O. Box 3707 M/C 13-08
Seattle, WA 98124-2207

COPY MAILED

OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Donald W. Coffland, et al. :
Application No. 09/847,488 :
Filed: May 2, 2001 :
Attorney Docket No. 00-046 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed June 25, 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 26, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks for

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GENERAL COUNSEL'S OFFICE
THE AEROSPACE CORPORATION
2350 E. EL SEGUNDO BLVD, M1/040
EL SEGUNDO CA 90245

COPY MAILED

JUL 20 2006

OFFICE OF PETITIONS

In re Patent No. 6,369,462 :
Issued: 9 April, 2002 :
Application No. 09/847,496 : DECISION ON PETITION
Filed: 2 May, 2001 :
Attorney Docket No. D-389A :

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 15 May, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on 9 April, 2002. The window for payment of the first maintenance fee installment with a surcharge closed on 10 April, 2005. Therefore, since this petition was filed within twenty-four (24) months of 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).

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 related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);

(2) The surcharge set forth in § 1.20(i)(2); and

(3) A statement that the delay in payment of the maintenance fee was unintentional.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GROOVER & HOLMES
BOX 802889
DALLAS, TX 75380-2889

COPY MAILED

APR 21 2006

OFFICE OF PETITIONS

In re Application of
Shaik
Application No. 09/847,503
Filed: May 3, 2001
For: ABSOLUTE PUBLIC KEY CRYPTOGRAPHIC SYSTEM AND METHOD SURVIVING PRIVATE-KEY COMPROMISE WITH OTHER ADVANTAGES

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 17, 2006 and supplemented March 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 24, 2005 for failure to timely reply to the non-final Office action mailed December 23, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed March 23, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The requested power of attorney and change of correspondence address have been entered into the record.

This application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 10 2005

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO CA 94306

In re Application of	:
Edward F. Delong et al	:
Serial No.: 09/847,513	: PETITION DECISION
Filed: May 1, 2001	:
Attorney Docket No.: MBA-101	:

This is in response to the petition under 37 CFR 1.181, filed December 28, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Final Office action to applicants on February 18, 2004, setting a three month shortened statutory period for reply. Upon review of the address to which the Office action was mailed it has been discovered that it was mailed to an incorrect address in view of a new Power of Attorney filed November 21, 2003, which changed the correspondence address. A Notice of Abandonment has not been mailed in this application, however the application is technically abandoned for failure to reply to the Office action. In view of the Office error the abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of the Office action to the correct correspondence address according to Office records.

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 571-272-0591 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 19

Antoinette F. Konski
McCutchen Doyle Brown & Enersen LLP
Three Embarcadero Center, Suite 1800
San Francisco, CA 94111-4067

COPY MAILED

SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of
Ming Fai Chan et al.
Application No. 09/847,525
Filed: May 1, 2001
Attorney Docket No. NB-2016.00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 8, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 9, 2003.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application is being forwarded to Technology Center AU 1624 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED

JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Bond et al.	:	
Application No. 09/847,535	:	DECISION ON PETITION
Filed: May 1, 2001	:	
Attorney Docket No. MS1-0665US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment and an Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2121 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

MAILED

APR 23 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 9

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

In re Application of: Cuong V. Do	)	
Application No. 09/847,545	)	
Filed: May 3, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD AND APPARATUS FOR	)	**WITHDRAWAL AS ATTORNEY**
CONDUCTING A BIDDING	)	
SESSION	)	

This is a decision on the Request To Withdraw from Representation filed March 8, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

There is no evidence of record that the signer of the petition, Thomas W. Krause, was appointed as an attorney or agent of record. Therefore, it is unnecessary for the petitioner to withdraw from representation. Accordingly, the request is **DISMISSED** as **MOOT**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025-1030

COPY MAILED

DEC 19 2005

OFFICE OF PETITIONS

In re Application of :
Yeung et al. :
Application No. 09/847,570 : DECISION ON PETITION
Filed: May 2, 2001 :
Attorney Docket No. 25821P032 :

This is a decision on the petition under 37 CFR 1.47(b) filed November 29, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

Joint inventor, Mong Tung Yeung signed the originally filed declaration in the present application. Applicant states that applicant's European Attorney and the co-inventors have been unable to contact inventor Yeung to obtain his signature on the new declaration and power of attorney documents after diligent efforts.

Upon reviewing the petition, the Office has concluded that applicant failed to submit sufficient evidence to prove that diligent efforts have been made to locate and/or contact inventor Yeung.

Initially, the Office notes that applicant failed to provide any statements of facts by persons with firsthand knowledge of the details, such as the European Attorney or the co-inventors. Where inability to find or locate a named inventor is alleged, a statement

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating a refusal by an inventor, or the inability to locate an inventor, to also sign a supplemental oath or declaration is a waiver of 37 CFR 1.67. See MPEP 603.

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. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as a telephone directory or the Internet continue to fail, then applicant will have provided the necessary proof that the inventor cannot be reached. Applicant should submit documentary evidence to support the conclusion that inventor Yeung cannot be located or that he refused to execute the supplemental declaration. It is important that the forthcoming communication contains statements of fact as opposed to conclusions.

In view of applicant's failure to provide an evidentiary showing that inventor Yeung cannot be located and/or contacted, it is agreed that justice would not be served at this time by waiving the requirement for his signature on the supplemental declaration.

Accordingly, the petition under 37 CFR 1.183 is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **Failure to timely respond will result in abandonment of the application.** The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

The $400.00 petition fee will be charged to applicant's Deposit Account, as authorized.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025-1030

COPY MAILED

FEB 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Yeung et al. :
Application No. 09/847,570 : DECISION ON PETITIONS
Filed: May 2, 2001 :
Attorney Docket No. 25821P032 :

This is a decision on the following petitions filed on October 10, 2006: (1) renewed petition under 37 CFR 1.183, seeking waiver of 37 CFR 1.67 and 1.63; (2) petition under 37 CFR 1.137(b) to revive the above-identified unintentionally abandoned application; and, (3) petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

As to the petition under 37 CFR 183:

With the present renewed petition, petitioners submit a supplemental declaration executed by all of the joint inventors. In view of the joinder of inventor, Mong Tung Yeung, further consideration under 37 CFR 1.183 is not necessary. Therefore, the petition under 37 CFR 1.183 is **dismissed** as involving a moot issue.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to file a timely response to the decision mailed on December 19, 2005. The decision set a two-month extendable period from the mailing date of the decision to respond, correcting the noted deficiencies. As no response was received, the application became abandoned on February 20, 2006. A Notice of Abandonment was mailed on March 30, 2006.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. Nevertheless, the statement presented in the petition will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioners must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

Petitioners have met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

As to the petition under 37 CFR 1.313(c)(2):

Petitioners request withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioners are advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioners 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) 272-3211.

This matter is being referred to Technology Center AU 2674 for processing the RCE and for consideration of the Information Disclosure Statement submitted on October 10, 2006.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioners are advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

G.E. Ehrlich (1995) Ltd.
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

COPY MAILED

JAN 27 2003

OFFICE OF PETITIONS

In re Application of
Daniel M. Michaelson
Application No. 09/847,586
Filed: May 3, 2001
Attorney Docket No. 01/21573

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed June 7, 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 8, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Walt Froloff
273D Searidge Road
Aptos, CA 95003

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Reed Burkhart
Application No. 09/847,590
Filed: May 2, 2001
Attorney Docket No. M-10100 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on November 16, 2006, to revive the above-identified application.

The application became abandoned for failure to timely file a proper reply to the non-final Office action mailed November 17, 2004. A Notice of Abandonment was mailed on October 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The application file is being referred to Technology Center Art Unit 2157, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIGGS, HOGG, DAUGHERTY & DEL
ZOPPO CO., LPA
38500 CHARDON ROAD
WILLOUGHBY HILLS, OH 44094

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Patent of	:	
Lampman et al.	:	
Application No. 09/847641	:	
Filing or 371(c) Date: 05/02/2001	:	ON PETITION
Patent No. 6,889,073	:	
Issue Date: 05/03/2005	:	
Title of Invention:	:	
BREAST BIOPSY AND THERAPY SYSTEM	:	
FOR MAGNETIC RESONANCE IMAGERS	:	

This is a decision on the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent under 37 CFR § 1.378(c), filed August 4, 2009, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued May 3, 2005. The grace period for paying the three and one-half (3½) year maintenance fee expired on May 3, 2009. 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).

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.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Petitioner is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The file is being referred to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7 8

COPY MAILED

SEP 1 3 2001

OFFICE OF PETITIONS

PETER K. TRZYNA
P.O. BOX 7131
CHICAGO , IL 60680-7131

In re Application of
David McCarter and Jared Schutz
Application No. 09/847,644
Filed: May 2, 2001
Attorney Docket No. PROFLOWERS-P
Title: GENERATING A COURIER SHIPPING LABEL OR THE LIKE, INCLUDING AN ORNAMENTAL GRAPHIC DESIGN, AT NON-COURIER PRINTER

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), filed August 22, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on May 2, 2001, without an executed oath or declaration and identifying David McCarter and Jared Schutz as joint inventors. Accordingly, on May 29, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration[1]. To make timely this reply, applicant also filed a request for a one (1) month extension of time (and fee). Accompanying the petition was a declaration executed by the signing inventor, Jared Schutz, a declaration executed by William Strauss, the President and CEO of the assignee corporation, copies of the certified mail receipt and shipping information, along with the associated letter which was sent to the non-signing inventor, a copy of the employment agreement between the assignee and the non-signing inventor, an assignment agreement signed by the signing inventor, and a declaration and power of attorney signed by the signing inventor.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (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 inventors.

[1]These fees have been charged to petitioner's Deposit Account, as authorized in the petition.

Rule 47 applicant has met requirements (1), (3), and (4) above.

The declaration of William Strauss shows that a copy of the patent application, declaration, and assignment document was sent to the last known address of the non-signing inventor on two separate occasions. Both times the package was not claimed, and was returned to the sender. This action can reasonably be construed as a refusal on the part of Mr. McCarter to sign the declaration.

Regarding item (2) above, the petitioner has not included an acceptable oath or declaration. The submitted declaration is lacking in that it fails to list the name, post office address, and citizenship of each inventor.

Thus, on renewed petition, applicant must submit a declaration that is in compliance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Receipt of the formal drawings and the assignment is acknowledged. The assignment documents have been forwarded to the Assignment branch for recordation.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

Peter K. Trzyna
P.O. Box 7131
Chicago IL 60680

COPY MAILED

APR 2 2 2002

OFFICE OF PETITIONS

In re Application of
Jared Schutz and David McCarter
Application No. 09/847,644
Filed: May 2, 2001
Attorney Docket No. Proflowers –P2-01
Title: GENERATING A COURIER SHIPPING LABEL OR THE LIKE, INCLUDING AN ORNAMENTAL GRAPHIC DESIGN, AT NON-COURIER PRINTER

DECISION GRANTING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a)[1], filed December 14, 2001.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on May 2, 2001, without an executed oath or declaration and identifying David McCarter and Jared Schutz as joint inventors. Accordingly, on May 29, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with 37 CFR §1.63. This Notice set a two-month period for reply.

The original petition was dismissed[2] for failure to include an acceptable oath or declaration. With the present petition, the petitioner has rectified this shortcoming.

---

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 and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

It is noted that petitioner has submitted a three-month extension of time. This extension of time is unnecessary since the papers filed on February 20, 2002 (with a certificate of mailing dated February 11, 2002) will be treated as a supplement to the paper (declaration) filed on December 14, 2001. This fee has not been charged to petitioner's deposit account.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for D Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 The original petition was filed on August 22, 2001. The decision on the original petition was mailed on September 13, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

David McCarter
12213 Carmel Vista Road
235
San Diego, CA 92130

COPY MAILED

APR 2 2 2002

OFFICE OF PETITIONS

In re Application of Jared Schutz and David McCarter Application No. 09/847,644 Filed: May 2, 2001 Attorney Docket No. Proflowers –P2-01 Title: GENERATING A COURIER SHIPPING LABEL OR THE LIKE, INCLUDING AN ORNAMENTAL GRAPHIC DESIGN, AT NON-COURIER PRINTER	DECISION GRANTING STATUS UNDER 37 C.F.R. §1.47(a)

Dear Mr. McCarter:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to

the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C.
area).

for D Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Peter K. Trzyna
P.O. Box 7131
Chicago IL 60680

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER K. TRZYNA, ESQ.
P.O. BOX 7131
CHICAGO IL 60680

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Jared Schutz Polis et al	:	
Application No. 09/847,644	:	DECISION ON PETITION
Filed: May 2, 2001	:	
Attorney Docket No. Proflowers-P2-01	:	

This is a decision on the petition under 37 CFR 1.182, filed, , to change the name of inventor "Jared Polis Schutz" to – Jared Schutz Polis --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2625 for review of the papers filed August 30, 2007.

Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/847,644	05/02/2001	2625	1321	Proflowers-P2-01	27	4

CONFIRMATION NO. 1018

CORRECTED FILING RECEIPT

OC000000025843577

28710
PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO, IL 60680

Date Mailed: 09/14/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jared Schutz Polis, Boulder, CO;
David McCarter, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number **28710**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/776,956 02/05/2001
which is a CIP of 09/149,650 09/08/1998

Foreign Applications

If Required, Foreign Filing License Granted: 05/25/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/847,644

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Generating a courier shipping label or the like, including an ornamental graphic design, at non-courier printer

Preliminary Class

358

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).

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 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

COPY MAILED

FEB 2 5 2003

OFFICE OF PETITIONS

Applicant: Rogner et al.
Appl. No.: 09/847,665
Filing Date: May 3, 2001
Title: IDENTIFICATION OF NEURAL DEFECTS ASSOCIATED WITH THE NUCLEOSOMAL ASSEMBLY PROTEIN 112 GENE
Attorney Docket No.: 03495.0203-00000
Pub. No.: US 2002/0102566 A1
Pub. Date: August 1, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 30, 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.

Specifically in paragraph [0133] the Office published "Nap1L2/NAP1L2", applicant request that the Office publish "Nap11L2/NAP1L2", the Office will publish "Nap11L2/NAP1L2", which correctly reflects the application as originally filed.

On page 15, the SEQ ID NO: 6 will be moved to the end of claim 45, however the errors in the sequence will not be corrected as the text on the page is very small and in such a poor quality that the errors are due to the quality of the text. Applicant is advised that he may want to file a cleaner copy of application papers, as some of the errors are due to faint or slightly blurred text.

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(a), should be submitted via the EFS system and any question or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington, DC 20231

By facsimile: 703-305-8568

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

MAR 16 2004

OFFICE OF PETITIONS

Applicant: Finzel et al.
Appl. No.: 09/847,670
Filing Date: May 2, 2001
Title: HEPATITIS C VIRUS HELICASE CRYSTALS, CRYSTALLOGRAPHIC STRUCTURE AND METHODS
Attorney Docket No.: 6263.N
Pub. No.: US 2003/0165984 A1
Pub. Date: September 4, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 14, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

MAR 1 6 2004

OFFICE OF PETITIONS

Applicant: Finzel et al.
Appl. No.: 09/847,670
Filing Date: May 2, 2001
Title: HEPATITIS C VIRUS HELICASE CRYSTALS, CRYSTALLOGRAPHIC STRUCTURE AND METHODS
Attorney Docket No.: 6263.N
Pub. No.: US 2003/0165984 A1
Pub. Date: September 4, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 14, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,600,229	2003-07-29	09/847,766	2001-05-01	49450030

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	/Scott Jacobson/	Date (YYYY-MM-DD)	2007-11-05
Name	Scott Jacobson	Registration Number	42689

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. 6600229
Issue Date: July 29,2003
Application No. 09847766
Filed: May 1,2001
Attorney Docket No. 30-4945 CIP (4780)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 5,2007 ,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 5,2007 . 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

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

Glenn M. Kubota
MORRISON & FORESTER LLP
5 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

MAILED

DEC 0 5 2003

Technology Center 2100

In re Application of:	)	
Wohlgemuth et al.	)	
Application No. 09/847,813	)	**DECISION ON REQUEST FOR**
Filed: May 1, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: ANTI-PIRACY SYSTEM FOR REMOTELY SERVED COMPUTER APPLICATIONS	)	

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 request filed November 24, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

FM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: John R. King
KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATE
UNITED STATES PATENT AND TRADEMARK OFF
WASHINGTON, DC 20
www.uspto.g

Paper No. 5

MAILED

APR 2 4 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

In re Application of	:	
Razavi et al.	:	
Application No. 09/847,866	:	DECISION ON REQUEST TO
Filed: May 2, 2001	:	WITHDRAW AS ATTORNEY
For: LOW NOISE MIXER CIRCUIT WITH IMPROVED GAIN	:	

This is a decision on the request to withdraw as attorney/agent of record filed on April 1, 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 not met item (1) and (2) above. The customer number 20,350, is not associated with the file; and there is no clear indication of a present mailing address.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER, LLP
SUITE 500
3000 K STREET, NW
WASHINGTON, DC 20007

COPY MAILED

JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Nakayama, et. al.	:	
Application No. 09/847,885	:	ON PETITION
Filed: May 2, 2001	:	
Attorney Docket No. 18564-005910	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 5, 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 $1,500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of an amendment and $790 for the filing of the RCE.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1762.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

COPY MAILED

APR 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Frank J. Giordano et al. :
Application No. 09/847,936 : ON PETITION
Filed: May 3, 2001 :
Attorney Docket No. 220002057125 :

This is in response to the petition under 37 CFR 1.47(a), filed February 25, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

By declaration of attorney Catherine M. Polizzi, applicants set forth the facts relied on to conclude that inventor Frank J. Giordano refuses to join in the application. Attorney Polizzi detailed unsuccessful attempts to contact inventor Giordano by email and telephone, as well as, delivery of an assignment and declaration to inventor Giordano's last known business address via Federal Express on February 5, 2002 and February 11, 2002. In support of the petition, applicant submitted a copy of the Federal Express confirmation of deliveries.

The evidence presented fails to show that a complete copy of the application papers for this case was presented to nonsigning inventor Giordano. Before a refusal can be alleged, applicants must demonstrate 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. If joint inventor Giordano was not presented with a copy of the application papers, then Mr. Giordano could not attest that he has "reviewed and understands the application papers" and could not execute that declaration he was requested to sign. Therefore, unless petitioner can show that a copy of the application papers was presented to inventor Giordano, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Giordano's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc. See Manual of Patent Examining Procedure, Section 409.03(d).

The assignment and declaration sent by Federal Express to the last known address of inventor Giordano were not signed for by inventor Giordano, but by "Y. Haung" and "M. Chirloski." Therefore, it is likely from the evidence submitted that the address to which applicant sent the documents, may be invalid. Further efforts to locate inventor Giordano and to present the application papers to him at a valid address (or establish that the address to which the papers were delivered is valid) are warranted. If diligent efforts to obtain a forwarding address or to locate the non-signing inventor by other means such as through the Internet continue to fail, then applicant will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Applicant should submit documentary evidence such as the results of a telephone directory or an Internet search. However, if the non-signing inventor is located at another address, a copy of the application papers should be sent to him at that address, or, if it is determined that the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail: 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 22202

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

COPY MAILED
JUL 01 2002
OFFICE OF PETITIONS

In re Application of	:
H. Kirk Hammond et al	:
Application No. 09/847,936	: DECISION GRANTING
Filed: May 3, 2001	:STATUS UNDER 37 CFR 1.47(a)
For: TECHNIQUES AND COMPOSITIONS	:
FOR TREATING CARDIOVASCULAR	:
DISEASE BY IN VIVO GENE DELIVERY	

This is in response to the petition under 37 CFR 1.47(a), filed June 12, 2002, requesting reconsideration of a decision mailed April 12, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

COPY MAILED
JUL 01 2002
OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of	:	
H. Kirk Hammond et al	:	
Application No. 09/847,936	:	ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. 220002057125	:	

This is a decision on the petition under 37 CFR 1.182, filed June 12, 2002, to change the order of the names of the inventors.

The petition is granted.

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

This file is being forwarded to the Initial Patent Examination Unit.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

FRANK J. GIORDANO
YALE UNIVERSITY, SCHOOL OF MEDICINE
BOYER CENTER FOR MOLECULAR MEDICINE, ROOM 336C
295 CONGRESS AVE.
NEW HAVEN, CT 06510

COPY MAILED
JUL 0 1 2002
OFFICE OF PETITIONS

In re Application of
H. Kirk Hammond; Wolfgang Dillmann; Frank J. Giordano
Application No. 09/847,936
Filed: May 3, 2001
For: TECHNIQUES AND COMPOSITIONS FOR TREATING CARDIOVASCULAR DISEASE BY IN VIVO GENE DELIVERY

Dear Mr. Giordano:

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:

Morrison & Foerster LLP
755 Page Mill Rd.
Palo Alto, CA 94304-1018

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071217

DATE : December 17, 2007

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction on Patent No.: 6894204

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:

PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
12/18/07

SPE: Patricia Bianco Art Unit 3772

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/10/07

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/847942** Patent No.: **6994904**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply..
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes to column 9 on page 2 of 2 on the COC do not apply – The 2 paragraphs added to column 9 appear to introduce new matter.

SPE

1774
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 17

FOLEY & LARDNER
PO BOX 80278
SAN DIEGO CA 92138-0278

COPY MAILED
JUL 15 2003
OFFICE OF PETITIONS

In re Application of
Desai, et al.
Application No. 09/847,945
Filed: May 2, 2001
Attorney Docket No. ABI1460-3
(071243-1317)

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 21, 2003.[1]

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on May 2, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

---

[1] Supplemented by a facsimile transmission on July 8, 2003.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of October 23, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 1600 to await for applicant's reply to the final Office action mailed May 19, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN - 6 2004

Stephen E. Reiter
FOLEY & LARDNER
P.O. Box 80278
San Diego, CA 92138-0178

In re Application of	:	
Desai and Soon-Shiong	:	
Serial No.: 09/847945	:	Decision on Petition
Filed: May 2, 2001	:	
Attorney Docket No.: ABI1460-3		

This is in response to applicants' "Petition to Accept an Unintentionally Delayed Domestic Priority Claim under 37 CFR 1.78(a)(3) " filed on November 18, 2003.

Applicant's statement has been reviewed. The requirements under 37 CFR 1.78(a)(3) are met. Accordingly, the petition is granted.

Petition GRANTED.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang for

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

COPY MAILED
JUL 28 2005
OFFICE OF PETITIONS

In re Application of	:	
Swift et al.	:	DECISION ON
Application No. 09/847,960	:	PETITION
Filed: May 2, 2001	:	
Atty Docket No. A-69332-1/RMS	:	
/JJD	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed November 23, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred eight (308) days to three hundred thirty (330) days.

The application for patent term adjustment is **DISMISSED**.

For the reasons set forth 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 eighty-three (283)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 24, 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 308 days. On November 23, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the

[1] PALM records indicate that the Issue Fee payment was also received on November 23, 2004.

reduction of 27 days associated with their delay in responding to the Notice to File Missing Parts mailed July 13, 2001. Applicants state that their response was received on October 18, 2001 and thus, the delay should only be 5 days.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred eight (308) days based on an adjustment for PTO delay of three sixty-five (365) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) reduced by applicants' delays of twenty-seven (27) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and thirty (30) days for delay in replying to the Notice to File Missing Parts of Application mailed July 13, 2001, and the final rejection mailed March 19, 2004, respectively. The period of reduction of 27 days is at issue.

A review of the application file reveals that the applicants' response to the Notice to File Missing Parts of Application mailed July 13, 2001, is of record in the application with a date of receipt by the Office of August 27, 2001. However, this response was not complete. The Notice required applicants to submit *inter alia* substitute drawings. The Office mailed a Notice of Incomplete Reply on September 7, 2001, notifying applicants that their response received August 27, 2001 was incomplete and requesting the substitute drawings. On October 18, 2001, applicants supplied the substitute drawings.

Pursuant to 37 CFR 1.704(c)(7), applicants failed to engage in reasonable efforts to conclude prosecution of the application by submitting an incomplete reply to the request for substitute drawings set forth in the Notice to File Missing Parts of Application mailed July 13, 2001. 37 C.F.R. § 1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In the instant case, an initial reply was filed on August 27, 2001. However, by Notice mailed September 7, 2001, applicants

were advised that the reply was not complete. On October 18, 2001, applicants filed another response. Accordingly, the period of adjustment is 52 days, the number of days in the period beginning on August 28, 2001 and ending on October 18, 2001.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred eighty-three (283) days. (365 - (52 + 30)).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAIL

MAY 06 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Michael Brown
Application No.: 09/847,980
Filed: May 2, 2001
For: METHOD AND SYSTEM FOR ROUTE TABLE MINIMIZATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed March 25, 2002.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on April 9, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FULBRIGHT & JAWORSKI L.L.P. as the attorneys of record of the instant application. The Power Of Attorney of April 9, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FULBRIGHT & JAWORSKI L.L.P.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 305-9750

cc: Jan K. Simpson
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

COPY MAILED

SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Gerald W. INGRAM et al. :
Application No. 09/847,999 : ON PETITION
Filed: May 4, 2001 :
Attorney Docket No. 43799-204796 :

This is a decision on the petition under 37 CFR 1.183, filed July 25, 2005, seeking waiver of the rules.

The petition is **DISMISSED**.

Petitioner requests waiver of the rules as all rejections of the pending claims have been reversed by the Board of Patent Appeals and Interferences (BPAI) or timely rendered moot in view of the amendments to the claims in copending Application No. 09/594,786.

37 CFR 1.197 states:

> (a) After decision by the Board of Patent Appeals and Interferences, the application will be returned to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the application may require, to carry into effect the decision.
> (b) Appellant may file a single request for rehearing within two months from the date of the original decision, unless the original decision is so modified by the decision on rehearing as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought. See **§ 1.136**(b) for extensions of time for seeking rehearing in a patent application and **§ 1.550**(c) for extensions of time for seeking rehearing in a reexamination proceeding.
> (c) Termination of proceedings.

> (1) Proceedings are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ **1.304**) except:
> (i) Where claims stand allowed in an application; or
> (ii) Where the nature of the decision requires further action by the examiner.
> (2) The date of termination of proceedings is the date on which the appeal is dismissed or the date on which the time for appeal to the Court or review by civil action (§ **1.304**) expires. If an appeal to the Court or a civil action has been filed, proceedings are considered terminated when the appeal or civil action is terminated. An appeal to the U.S. Court of Appeals for the Federal Circuit is terminated when the mandate is issued by the Court. A civil action is terminated when the time to appeal the judgment expires.

37 CFR 1.198 states:

> Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of **§ 1.114** or **§ 1.196** without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

37 CFR 1.181(f) states:

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The issue at hand is not what actions petitioner has taken in another patent application; rather it is whether petitioner has properly responded to the decision by the BPAI mailed May 26, 2005. The BPAI decision affirmed the examiner's provisional rejection of claims 31-33 under 35 U.S.C. 101. Under the rules of practice before the USPTO petitioner may have: (1) requested rehearing under 37 CFR 41.52; (2) timely filed an appeal to the Court or review by civil action under 37 CFR 1.304; or (3) filed an RCE under 37 CFR 1.114. Petitioner has done neither.

Petitioner failed to request rehearing under 37 CFR 41.52 while the case was still before the BPAI, and therein seek directly from the BPAI guidance or amplification regarding the above decision, as did the appellants in Ex parte Gartin, 90 USPQ 392, 395 (Bd. Pat. App. 1950) and in Ex parte Druey, 145 USPQ 219, 221 (Bd. Pat. App. 1964).

Petitioner further failed to file an RCE under 1.114 per 37 CFR 1.198 seeking to reopen prosecution before the examiner. Rather petitioner merely filed a petition under 37 CFR 1.183, which did not of itself toll the period for seeking judicial review under 37 CFR 1.04. See 1.181(f). Furthermore, any attempt at reopening of prosecution must comply with 37 CFR 1.198. See e.g., Ex parte Bourne, 1904 Dec. Comm'r Pat. (1904) (reopening refused where applicant suggests that proposed claims are patentable but where no tribunal of the USPTO has ever suggested that the proposed claims would be allowable). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing–or not filing-- papers).

Circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

However failure to know and properly apply the rules of practice before the USPTO is not a basis for seeking waiver of the rules under 1.183. Furthermore, extraordinary relief will not be considered where the rules of practice already provide an avenue for relief. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Here, as noted above petitioner could have sought to reopen prosecution before the examiner by way of e.g. 37 CFR 1.114. Further in this regard, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 132(b) (and its promulgating regulation 37 CFR 1.114) provides a specific mechanism whereby an applicant may petition the USPTO to reopen prosecution. Since there is a specific mechanism in place to remedy the requested relief then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy. Likewise as the statute provides at §41(a)(7) a mechanism for revival of an inadvertently abandoned application, it would be an improper exercise of 37 CFR 183 and seek to forestall, or overcome abandonment as the petition requests.

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.

Application No. 09/847,999

The application file is being referred to Technology Center AU 2177 for consideration of processing this case as an **abandonment** in view of petitioners failure to file an appropriate response to the decision mailed May 26, 2005.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

Paper No. 34

COPY MAILED
NOV 17 2005
OFFICE OF PETITIONS

In re Application of	:	
Gerald W. INGRAM et al.	:	
Application No. 09/847,999	:	ON PETITION
Filed: May 4, 2001	:	
Attorney Docket No. 43799-204796	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of May 26, 2005 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the application became abandoned on July 27, 2005. See MPEP 1214.06.

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 argument, Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the RCE and reply to the decision by the Board of Patent Appeals and Interferences of May 26, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2177 for appropriate action on the concurrently filed Request for Continued Examination and argument.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 Satellite Blvd., 2nd Floor
Duluth, GA 30096

Mail Date: 05/20/2010

Applicant	: Marcus Haley	: DECISION ON REQUEST FOR
Patent Number	: 7637420	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/848,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2716** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 2 2 2008

OFFICE OF PETITIONS

RUTAN & TUCKER, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

In re Application of
Viktor Ivanovich Petrik
Application No. 09/848,047
Filed: May 3, 2001
Attorney Docket No. 101209.0002US1

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 13, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Martin Fessenmaier does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Alexander Bodarykin
348 N. Eckhoff Street
Orange, CA 92868

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RUTAN & TUCKER, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

COPY MAILED

DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Viktor Ivanovich Petrik	:	
Application No. 09/848,047	:	DECISION ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. 101209.0002US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2)MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lack items (3).

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 6, 2006, 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 1.117(b)). No amendment prima facie placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 7, 2006.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional. The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was

unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 7, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Robert D. Fish (Turan & Tucker LLP) was counsel of record at the time of abandonment, Robert D. Fish should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed outside of Robert D. Fish. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Fish and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as

opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop
Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Don Camegle
5404 Alton Pkwy, Suite 5A #540
Irvine, CA 92604

Attachment: Advisory Action and Notice of Non-Compliant

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/848,047	Applicant(s) PETRIK, VIKTOR IVANOVICH	
	Examiner DUANE S. SMITH	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2008 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 3 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: *applicant indicates claims 20-24 and 27-33 should be cancelled and claims 1-19 and 34 ar allowed, however such claims are not allowed but cancelled and claims rejected under final are 35-51*. (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: *35-51*.
   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: _____.

/Duane S. Smith/
Supervisory Patent Examiner, Art Unit 1797

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 09/848,047	Applicant(s) PETRIK, VIKTOR IVANOVICH	
	Examiner DUANE S. SMITH	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

	/Duane S. Smith/ Supervisory Patent Examiner, Art Unit 1797

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

FEB 05 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

Edwin H. Crabtree
3733 Cherry Creek N. Drive
Suite 375
Denver, Colorado 80209

In re Application of: Edward Gendelman. Application No. 09/848,090 Filed May 2, 2000 For: PROCESS FOR PACKAGING AND SECURITIZATION OF FUTURE CRUDE OIL AND NATURAL GAS PRODUCTION STREAMS	)))))))	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (VI): ENERGY

This is a decision on the petition, filed November 8, 2001, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(VI).)

The petition does not meet the requirements for special status in that there is no persuasive showing that the invention *materially contributes* to the discovery, development, conservation or more efficient utilization of energy resources as required in (A) or (B). The invention disclosed and claimed is removed from the process of materially contributing to the saving or conserving of energy as it is directed toward a method of creating an asset backed security as opposed to any clearly defined developments in energy saving or conservation technology.

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.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

MAILED

AUG 0 6 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

UNITED STATES PATENT & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

Edwin H. Crabtree
3773 Cherry Creek N. Drive, Suite 575
Denver, CO 80209

Paper No. 5

In re Application of:
Edward Gendelman
Serial No. 09/848,090
Filed: May 2, 2001
For: PROCESS FOR PACKAGING AND SECURITIZATION OF FUTURE CRUDE OIL AND NATURAL GAS PRODUCTION STREAMS

DECISION ON RENEWED PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the renewed petition filed April 1, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section VI: Energy. A petition to make special was filed on December 18, 2001. That petition was dismissed in a decision mailed February 5, 2002 wherein it was held that the invention did not materially contribute to the discovery, development, conservation or more efficient utilization of energy resources.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the invention allows producers to increase deployed capital, thereby leading to more aggressive exploration and drilling programs, which would contribute to the discovery and development of additional energy resources.

It is maintained that the alleged increase in discovery and development of energy resources is not the direct result of the invention. While the process for packaging and securitizing may offer improved financing and risk capabilities, it does not directly result in the discovery or development of energy resources. The money could be used in a variety of ways and not necessarily for exploration and drilling.

For the above stated reasons, the petition is **DENIED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd: 8/2/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

DIVERSA CORPORATION
4955 DIRECTORS PLACE
SAN DIEGO, CA 92121

COPY MAILED
APR 28 2004
OFFICE OF PETITIONS

In re Application of :
Jay M. Short, et al. :
Application No. 09/848,095 : ON PETITION
Filed: May 3, 2001 :
Attorney Docket No. DIVER1280-10 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed June 30, 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 31, 2003. A Notice of Abandonment was mailed on February 13, 2004.

The file is being forwarded to Technology Center 1600 for review of the RCE, filed February 17, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Paper No. 9

DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

COPY MAILED

FEB 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Mosimann et al.	:	
Application No. 09/848,105	:	ON PETITION
Filed: 2 May, 2001	:	
Attorney's Docket No. 11006.00	:	

Receipt is acknowledged of the petition first filed on 27 August, 2001, captioned "Petition Regarding Allegedly Omitted Figures 4 and 10" concerning the Patent and Trademark Office's handling of the above-referenced patent application.

The petition is dismissed.

The application was filed on 2 May, 2001. However, on 29 June, 2001, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date of 2 May, 2001, and advising applicant that Figures 4 and 10 described in the specification appeared to have been omitted.

In response, new drawings were filed on 27 August, 2001. Additionally, the present petition was filed on 29 November, 2001. Petitioner explains that Figures 4 and 10 were not missing on 2 May, 2001. Instead, the application included two drawing figures labeled "Figure 3," one of which was intended to be labeled Figure 4. Additionally, the sheet of drawings containing Figure 10 was attached to a group of papers labeled as an appendix also filed on 2 May, 2001.

A review of the official file reveals that sheet 3 of the drawings contains two figures labeled "Figure 3". Additionally, the sheet of drawings containing Figure 10 has been located among the application papers filed on 2 May, 2001.

It is obvious from the petition that no drawing was actually missing on 2 May, 2001. Rather, the drawing of Figure 4 was simply mislabeled as a result of the applicants' filing error. Additionally, Figure 10 was not located with the other drawing sheets due to the applicants' filing error. However, the "Notice" mailed on 29 June, 2001, was correct in stating that Figures 4 and 10 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As the present petition was not necessitated by an error on the part of the Office, the petition fee will not be refunded.

Petitioners should file an amendment renumbering the mislabeled drawing figure and the drawing sheets prior to the first Office action to avoid confusion.

The application will be processed using the application papers present on 2 May, 2001. The copy of the application papers supplied on 27 August, 2001, will not be used for processing or examination, but will be retained in the application file.

Receipt of the substitute drawings filed on 27 August, 2001, is acknowledged.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently-accorded filing date, using the application papers filed on 2 May, 2001, including one (1) sheet of drawings containing Figure 10, and for an indication on the bib-data sheet that eight (8) sheets of drawings were present on filing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 0 8 2002
PATENT & TRADEMARK OFFICE

RECEIVED
FEB 2 2002
Dorsey & Whitney LLP

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Paper No. 9

DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER CO 80202-5647

RECEIVED
APR 1 2 2002
TECHNOLOGY CENTER R3700

COPY MAILED
FEB 2 1 2002
OFFICE OF PETITIONS

In re Application of
Mosimann et al.
Application No. 09/848,105
Filed: 2 May, 2001
Attorney's Docket No. 11006.00

ON PETITION

Receipt is acknowledged of the petition first filed on 27 August, 2001, captioned "Petition Regarding Allegedly Omitted Figures 4 and 10" concerning the Patent and Trademark Office's handling of the above-referenced patent application.

The petition is dismissed.

The application was filed on 2 May, 2001. However, on 29 June, 2001, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date of 2 May, 2001, and advising applicant that Figures 4 and 10 described in the specification appeared to have been omitted.

In response, new drawings were filed on 27 August, 2001. Additionally, the present petition was filed on 29 November, 2001. Petitioner explains that Figures 4 and 10 were not missing on 2 May, 2001. Instead, the application included two drawing figures labeled "Figure 3," one of which was intended to be labeled Figure 4. Additionally, the sheet of drawings containing Figure 10 was attached to a group of papers labeled as an appendix also filed on 2 May, 2001.

A review of the official file reveals that sheet 3 of the drawings contains two figures labeled "Figure 3". Additionally, the sheet of drawings containing Figure 10 has been located among the application papers filed on 2 May, 2001.

Mail Ledger 11006.00
Docketed 2/25/02
Due Date

It is obvious from the petition that no drawing was actually missing on 2 May, 2001. Rather, the drawing of Figure 4 was simply mislabeled as a result of the applicants' filing error. Additionally, Figure 10 was not located with the other drawing sheets due to the applicants' filing error. However, the "Notice" mailed on 29 June, 2001, was correct in stating that Figures 4 and 10 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As the present petition was not necessitated by an error on the part of the Office, the petition fee will not be refunded.

Petitioners should file an amendment renumbering the mislabeled drawing figure and the drawing sheets prior to the first Office action to avoid confusion.

The application will be processed using the application papers present on 2 May, 2001. The copy of the application papers supplied on 27 August, 2001, will not be used for processing or examination, but will be retained in the application file.

Receipt of the substitute drawings filed on 27 August, 2001, is acknowledged.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently-accorded filing date, using the application papers filed on 2 May, 2001, including one (1) sheet of drawings containing Figure 10, and for an indication on the bib-data sheet that eight (8) sheets of drawings were present on filing.

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

B

OIPE AUG 24 2001 PATENT & TRADEMARK OFFICE

B 08-27-01 #3 SECTOR

EXPRESS MAIL CERTIFICATE

Date 8/24/01 Label No. 903055498-US

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.

B.W. LEE B.W. Lee
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.: 7101/0J097US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Peter NEHLSs and Karl-Heinz GLÜSENKAMP

Serial No.: 09/848,116 Art Unit: 1645

Filed: April 30, 2001 Confirmation No.: 5653

For: METHOD AND TEST KIT FOR ANALYZING DNA REPAIR

- -

Box PATENT APPLICATION
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

COMPLETION OF PATENT APPLICATION

The following items are submitted herewith in completion of the above-identified patent application:

1. Declaration and power of attorney. It is noted that there is a clerical error in the title of the application, as printed on the Declaration/Power of Attorney. It is believed that this error is a "minor deficiency" within the meaning of M.P.E.P. §602.03, and that the Declaration is proper. The Examiner is requested to contact the undersigned if it is determined that a new Declaration is necessary.

2. Payment in the amount of $ 460, ($355 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. [] Drawings, sheets (Figs.)

4. [X] Assignment for recording to: Peter Nehls

5. [X] Information Disclosure Statement

6. [X] Applicant claims small entity status pursuant to 37 C.F.R. §1.27.

7. A copy of Notice to File Missing Parts of Application.

Priority is claimed for this application, corresponding application/s having been filed as follows:

Country:	Germany
Number:	198 50 680.5
Date:	November 3, 1998

The priority document [X] is enclosed
[] will follow.
[] were filed in a previous application.

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: August 24, 2001

John C. Todaro
Reg. No. 36,036
Attorney for Applicant(s)

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022
212-527-7700

Docket No.: 7101/0J097US0

PATENT FEE COMPUTATION SHEET

	No. of Claims Presented	Extra Claims Previously Paid For	Number of Extra Claims	Rate
Basic Fee				$710.00
Total Claims	14 - 20	- 0 = 0	x $18.00	$0.00
Independent Claims	1 - 3	- 0 = 0	x $80.00	$0.00
Multiple Dependent Claims		- if so, add	$270.00	$0.00

Surcharge for late submission of filing fee and/or declaration ($130.00)	$130.00
SUBTOTAL	$840.00
[X] Small Entity REDUCTION (Half of Subtotal)	$420.00
Fee for recordation of assignment ($40.00)	$40.00
Charge for filing non-English language application ($130.00)	$0.00
TOTAL	$460.00

::ODMA\WORLDOX\M:\7101\0J097\LWJ6549.WPD

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/848,116	04/30/2001	Peter Nehls	7101/0J097

OIPE JC103
AUG 2 4 2001
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5653

FORMALITIES LETTER

OC000000006242957

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

Date Mailed: 06/29/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The 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).*
- 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 $ 420.**

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:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

A copy of this notice MUST be returned with the reply.

A. T

Customer Service Center

08/29/2001 EABUBAK1 00000022 09848116

01 FC:201 355.00 OP

02 FC:205 65.00 OP

Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

EXPRESS MAIL CERTIFICATE

Date 10/17/01 Label No. EL 767726624US

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.

A. DiMillo A. DiMillo

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: 7101/0J097

OIPE JC87 OCT 17 2001 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Peter NEHLS and Karl-Heinz GLUSENKAMP

Serial No.: 09/848,116 Art Unit: 1645

Confirmation No.: 5653

Filed: April 30, 2001 Examiner:

For: METHOD AND TEST KIT FOR ANALYZING DNA REPAIR

RESPONSE TO NOTICE OF INCOMPLETE REPLY

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

Sir:

Pursuant to the Notice of Incomplete Reply (Nonprovisional) dated October 4, 2001, attached hereto is an Abstract of the Disclosure as required under 37 CFR 1.72(b).

Please incorporate the Abstract as the last page of the specification.

Respectfully submitted,

Dated : October 17, 2001

Bert J. Lewen
Reg. No. 19,407
Attorney for Applicants

DARBY & DARBY, P.C.
805 Third Avenue
New York, N.Y. 10022
Phone (212) 527-7700

::ODMA\WORLDOX\M:\7101\0J097\EAH8862.WPD

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
09/848,116	04/30/2001	Peter Nehls	7101/0J097

CONFIRMATION NO. 5653

FORMALITIES LETTER

OC000000006844045

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

Date Mailed: 10/04/2001

OIPE JC87
OCT 17 2001
PATENT & TRADEMARK OFFICE

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 08/24/2001 to the Notice to File Missing Parts (Notice) mailed 06/29/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The 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:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

A copy of this notice MUST be returned with the reply.

Tequest Woldeyes
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

COPY MAILED
JUN 0 5 2006
OFFICE OF PETITIONS

Pasquale Musacchio
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re Application of
Edwin K. RUNYON
Application No.: 09/848,158
Filed: May 3, 2001
Atty Docket No.: 74953/11664

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's petition to revive under 37 CFR 1.137(b) filed 21 December 2005 in the United States Patent and Trademark Office (USPTO). For the reasons stated below, the petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The $1500.00 petition fee will be refunded to deposit account number 19-2179.

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 April 27, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 28, 2005.

On 21 December 2005, applicant filed the present petition to revive, including in the filing was a copy of a facsimile response of 22 June 2005.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

MPEP 711.03(c) details that 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).

While applicant has not provided a statement with firsthand knowledge of the fax transmission, applicant has included a copy of the auto-reply facsimile transmission from the USPTO and counsel has attested that the presently filed materials are true copies of the papers originally faxed on 22 June 2005. Thus, applicant has satisfied items all three items above and it is proper to **GRANT** applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment.

Accordingly, the issue and publication fee payments are accepted as having been timely paid.

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
Tel: (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

LESLIE A. VAN LEEUWEN
IBM CORP, IP LAW
11400 BURNETT ROAD
ZIP 4054
AUSTIN, TX 78758

FAX RECEIVED

MAY 2 5 2005

OFFICE OF PETITIONS

In re Application of
Nazzareno Massimo Colaiuta
Application No. 09/848,169
Filed: May 3, 2001
Attorney Docket No. GB920000089US1

ON PETITION

This is a decision on the petition under 37 CFR 1.173(b), filed May 12, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 3, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The Change of correspondence Address filed May 12, 2005 cannot be entered since it was not sign by an agent or attorney of record. Note MPEP Section 402.02 and 405.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mitchell P. Novick, Esq.
Law Offices of Mitchell P. Novick
66 Park Street
Montclair, NJ 07042

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Charles Hillel Rosendorf	:	
Application No. 09/848,191	:	ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. 1597-1070	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 6, 2006, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed April 7, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $250 fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

The application file is being forwarded to Technology Center Art Unit 3624.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

dss

Mailed:

In re application of	:	
Dennis C. Clemes et al.	:	DECISION ON
Serial No. 09/848,255	:	PETITION
Filed: May 04, 2001	:	
For: SULFUR DIOXIDE GENERATOR	:	SEP 2 9 2005

This is a response to the PETITION TO WITHDRAW NOTICE OF ABANDONMENT filed on July 21, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 14, 2005, for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85) due to insufficient funds within the deposit account be withdrawn. The request asks that the abandonment be withdrawn because sufficient funds were available.

BACKGROUND

- August 04, 2004: A NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) was mailed indicating that an Issue fee of $1330 and Publication fee of $300 are due by November 04, 2004.
- September 20, 2004: Applicants filed PART B - FEE(S) TRANSMITTAL (PTOL-85B) with authorization to charge the total required fees of $965 to deposit account number 22-0185(the difference in fees being due to applicant claiming small entity status on PTOL-85).
- September 21, 2004: The Publication Fee of $300 was charged to CBLH Deposit Account No. 22-0185.
- June 14, 2004: Notice of Abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing of the Notice of Allowance was mailed.

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 by the applicant and review of the USPTO applicant file reveals applicants' request has merit. Applicants properly replied to the Notice of Allowance mailed August 04, 2004 and a review of the Deposit Account Statement for Deposit Account 22-0185 indicates sufficient funds were available for payment of the Issue Fee of $665 on September 20, 2004 and on September 21, 2004 when the Publication Fee was charged. Therefore, the Issue Fee should have been charged to Deposit Account 22-0185 and accordingly, any holding of abandonment for failure to timely pay the Issue Fee is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the technical support staff for processing of the issue fee payment submitted September 20, 2004 and forwarding to Patent Publications for processing.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Larry Hume
Connolly Bove Lodge & Hutz LLP
1990 M Street, N.W., Suite 800
Washington, D.C. 20036-3425

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

COPY MAILED

JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Angelica Golubkov et al :
Application No. 09/848,293 : ON PETITION
Filed: May 4, 2001 :
Attorney Docket No. 2605.30

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
JUN 2 1 2004
OFFICE OF PETITIONS

Date : June 18, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/848,293

Applicant(s) : Angelica Golubkov et al
Application No. : 09/848,293
Filed : May 4, 2001

The above-identified application has been assigned Patent No. 6,755,876 and an issue date of June 29, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : June 29, 2004.

> "All reference to Patent No. 6,755,876 to Angelica Golubkov et al of Sweden for MOTOR FUEL FOR DIESEL, GAS-TURBINE AND TURBOJET ENGINES appearing in the Official Gazette of June 29, 2004 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112

COPY MAILED

MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Angelica Golubkov et al	:
Application No. 09/848,293	: DECISION GRANTING PETITION
Filed: May 4, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2605.30	:

This is a decision on the petition, filed March 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1714 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION ZINN MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

COPY MAILED

APR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Fostick et al.	:	
Application No. 09/848,339	:	ON PETITION
Filed: May 4, 2001	:	
Attorney Docket No. Q63704	:	

This is a decision on the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application, filed December 23, 2005, and alternatively a petition under 37 C.F.R. § 1.137(b) to revive the above-identified application.

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notification of Non-Compliant Appeal Brief (Notice) mailed June 3, 2005. Accordingly, the above-identified application became abandoned on July 4, 2005. A Notice of Abandonment was mailed on November 2, 2005.

Petitioner states that the Notice of Abandonment was improper as "the subheadings contained in the July 5, 2005 Appeal Brief are all proper and accurate, and fully compliant with the Rules." Further, petitioner states "the Appeal Brief incorrectly refer in some instances to claim 24, instead of claim 34 when arguing the patentability of the appeal claims."

The Notice mailed June 3, 2005 states, "Sub-headings for claims 34 and 49 do not correspond to the supporting statements which indicates claims 24 and 49 in the appeal brief sections summary of the claimed subject matter." The Appeal Brief submitted in response to the Notice did not correct the above error. As stated in 37 CFR 714.03:

> The practice set for in 37 CFR.1.135(c) does not apply where there has been a deliberate omission of some necessary party of a complete reply; rather, 37 CFR 1.135(c) is applicable only when the missing matter of lack of compliance is considered by the examiner as being "inadvertently omitted." Likewise, once an inadvertent omission is brought to the attention of the applicant, the question of inadvertence no longer exists.

Accordingly, since the error was not corrected after it was brought to the attention of the petitioner, the abandonment was not improper.

However, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the

required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

Winston Hsu
NAIPO(North America International Patent Office)
P O Box 506
Merrifield VA 22116

MAIL

NOV 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
CHENG :
Application No. 09/848,374 :
Filed: May 04, 2001 :
For: **POINTING DEVICE WITH AN INPUT PANEL** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 20, 2006

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/848417 Patent No.: 7,018,847 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

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: The wrong set of claims was printed. Changes from Examiner's Amendment were left off. These changes mirror those in ExA.

SPE

1641
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,018,847 B2
DATED : March 28, 2006
INVENTORS : Ib Mednel-Hartvig et al

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 1, column 9, line 48, after "matrix", insert --, having an upstream end and a downstream end,--.

Claim 1, column 9, line 53, after "analyte,", insert --the flow matrix further comprising a diffusively movable detection reagent,--.

Claim 1, column 9, line 54, change "wicking member" to --separate wicking member located--.

Claim 1, column 10, line 7, after "in contact with", insert --a top surface of--.

Claim 1, column 10, line 8, after "wicking member", delete --at a variable position between the upstream and downstream ends of the wicking member, thereby permitting variation of the time elapsing from the application of liquid to the liquid application zone until the indicator substance or substance combination changes colour--.

Claim 1, column 10, lines 15-16, change "included on an inner side of" to --located within--.

Claim 6, column 10, line 29, delete "or the inner side of the housing".

Claim 7, column 10, line 33, delete "or on the inner side of the housing".

Column 10, line 55, insert --**13.** The device according to claim 1, wherein the indicator is included on an inner side of the housing.--.

Mailing address of Sender:
Holly D. Kozlowski
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

Patent No. 7,018,847 B2

Form PTO 1050

JUN 6 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,018,847 B2
DATED : March 28, 2006
INVENTORS : Ib Mednel-Hartvig et al

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 1, column 9, line 48, after "matrix", insert --, having an upstream end and a downstream end,--.

Claim 1, column 9, line 53, after "analyte,", insert --the flow matrix further comprising a diffusively movable detection reagent,--.

Claim 1, column 9, line 54, change "wicking member" to --separate wicking member located--.

Claim 1, column 10, line 7, after "in contact with", insert --a top surface of--.

Claim 1, column 10, line 8, after "wicking member", delete --at a variable position between the upstream and downstream ends of the wicking member, thereby permitting variation of the time elapsing from the application of liquid to the liquid application zone until the indicator substance or substance combination changes colour--.

Claim 1, column 10, lines 15-16, change "included on an inner side of" to --located within--.

Claim 6, column 10, line 29, delete "or the inner side of the housing".

Claim 7, column 10, line 33, delete "or on the inner side of the housing".

Column 10, line 55, insert --13. The device according to claim 1, wherein the indicator is included on an inner side of the housing.--.

Mailing address of Sender:
Holly D. Kozlowski
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

Patent No. 7,018,847 B2

Form PTO 1050

JUN 6 2006

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.
09/848,430	05/04/2001	Jeffrey Thomas Kreulen	ARC920000023US1	7814

48146 7590 09/03/2008
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER
RIES, LAURIE ANNE

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Frederick E. Cooperrider
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182

In re Application of:
KREULEN et al.
Application No. 09/848,430
Filed: May 4, 2001
For: AN EFFICIENT STORAGE MECHANISM FOR REPRESENTING TERM OCCURRENCE IN UNSTRUCTURED TEXT DOCUMENTS

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely seek court review of the decision by Board of Patent Appeals and Interferences within a period of two months. A Notice of Abandonment was mailed on 30 July 2008.

A review of the Board's decisions mailed 08 June 2007 and 21 March 2008 indicates that dependent claims 2-4, 6-8, 10-12, 14, 16, 17, 21, 23 and 25 are allowable if they are presented in independent form. Pursuant to MPEP 1214.06(I), applicant should be informed and is given one month to submit an amendment to rewrite the dependent claims in independent form. Thus, the Notice of Abandonment mailed 30 July 2008 was premature.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the examiner of record to issue an Office communication to inform applicant about such a required amendment.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

Michael Q. Lee
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W., Suite 600
Washington, DC 2005-3934

MAILED

MAY 0 9 2002

Technology Center 2100

In re Application of: Blair et al.	)	
Application No. 09/848,437	)	
Filed: May 4, 2001	)	**DECISION ON REQUEST FOR**
For: SYSTEM, METHOD, AND	)	**WITHDRAWAL AS ATTORNEY**
COMPUTER PROGRAM PRODUCT	)	
FOR KNOWLEDGE		
MANAGEMENT		

This is a decision on the Request To Withdraw from Representation filed March 5, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 5, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: Aurigin Systems, Inc.
10710 North Tantau Avenue
Cupertino, CA 95014-0717

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

MILDE & HOFFBERG
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

COPY MAILED

MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Blair, et al.	:	
Application No. 09/848,437	:	ON PETITION
Filed: May 4, 2001	:	
Attorney Docket No. 1531.015000H	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 8, 2004 (Certificate of Mailing dated March 5, 2004), which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed June 25, 2003. This Notice set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on September 26, 2002. A Notice of Abandonment was mailed on January 28, 2004. The Notice of Abandonment indicated that no reply had been received.

Applicants contend that despite filing a change of correspondence address, the change was not entered and the non-final Office action was mailed to the wrong address. A review of the application file indicates that applicants did file a change of correspondence address on August 13, 2002.

In view thereof, **the holding of abandonment is withdrawn**.

Given the basis for granting this decision, the petition fee has been refunded to Deposit Account No. 50-0427.

Future correspondence concerning this application will be forwarded to the above address of record.

The application file is being forwarded to Group Art Unit 2177 for consideration of the amendment filed March 8, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

GLENN GOLD, P.A.
SUITE 450
600 NORTH PINE ISLAND RD.
PLANTATION, FL 33324

COPY MAILED

DEC 17 2001

OFFICE OF PETITIONS

In re Application of :
Singhal et al. :
Application No. 09/848,441 :
Filed: 3 May, 2001 :
Attorney Docket No. 6020.0100 :
: ON PETITION
In re Application of :
Singhal et al. :
Application No. 09/848,662 :
Filed: 3 May, 2001 :
Attorney Docket No. 6020.0200 :

This is a decision on the petition filed on 4 September, 2001, in Application No. 09/848,662, which is being treated as a petition under 37 CFR 1.181 to correct the files of the above-identified applications.

Applicants request that the specification filed in Application No. 09/848,441 on 3 May, 2001, be transferred to the file of Application No. 09/848,662, and that the specification filed in Application No. 09/848,662, on 3 May, 2001, be transferred to the file of Application No. 09/848,441, and that the applications be accorded filing dates of 3 May, 2001, with the specifications as part of the original disclosures.

Applicants' attorney, Glenn E. Gold, explained that the specification and declaration for Application No. 09/848,441 was inadvertently filed with the drawings for Application No. 09/848,662, and that the specification and declaration for Application No. 09/848,662 was inadvertently filed with the drawings for Application No. 09/848,441.

The Office notes that there appears to be no inconsistency between the declaration and specification for each application. The declaration for Application No. 09/848,441 lists the invention title as "Location Aware Service Proxies in a Short-Range Wireless Environment," the same invention title that appears on the first page of the specification for Application No. 09/848,441. Additionally, the application cover sheet itemizes the filing of seven (7) sheets of drawings. Seven (7) sheets of drawings are located in the application file. Likewise, the declaration for Application No. 09/848,662 lists the invention title as "Method and System for Adapting Short-Range Wireless Access Points for Participation in a Coordinated Networked Environment," the same invention title that appears on the first page of the specification for Application No. 09/848,662. Additionally, the application cover sheet itemizes the filing of five (5) sheets of drawings. Five (5) sheets of drawings are located in the application file.

It is noted, however, that the specification filed in Application No. 09/848,441 describes five (5) drawing figures, while seven (7) drawing figures were present on filing. Likewise, the specification filed in Application No. 09/848,662 describes seven (7) drawing figures, while only five (5) drawing figures were present on filing. It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on 3 May, 2001, since the drawing described in the specifications were not received with the respective specifications. However, since the drawings were in fact present in the USPTO on 3 May, 2001, the applications may be accorded filing dates of 3 May, 2001, on petition under 37 CFR 1.182.

The seven (7) sheets of drawings filed on 3 May, 2001, in Application No. 09/848,441 will be removed and transferred to Application No. 09/848,662.

The five (5) sheets of drawings filed on 3 May, 2001, in Application No. 09/848,662 will be removed and transferred to Application No. 09/848,441.

Application No. 09/848,441 will be reprocessed with the five (5) sheets of transferred drawings, containing Figures 1-5 filed on 3 May, 2001.

Application No. 09/848,662 will be reprocessed with the seven (7) sheets of transferred drawings, containing Figures 1-7 filed on 3 May, 2001.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 09/848,441 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 3 May, 2001, using the five (5) sheets of drawings containing Figures 1-5 filed on 3 May, 2001, and for correction of Office records to indicate that five (5) sheets of drawings were filed on that date. Thereafter, the application file will be forwarded to Technology Center 2600 for examination in due course.

Application No. 09/848,662 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 3 May, 2001, using the seven (7) sheets of drawings containing Figures 1-7 filed on 3 May, 2001, and for correction of Office records to indicate that seven (7) sheets of drawings were filed on that date. The application will remain in OIPE until pre-examination processing is complete.

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

SEP 10 2001

#3

BRISTOL -MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 5100
WALLINGFORD , CT 06492-7660

In re Application of	:
Ismat Ullah et al	:
Serial No.: 09/848,448	: PETITION TO MAKE SPECIAL
Filed: May 3, 2001	:
Attorney Docket No.: TN1A-CIP	:

This is in response to applicants' petition filed July 25, 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, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

AUG 21 2007

OFFICE OF PETITIONS

In re Application of:	:	DECISION ON REQUEST
Macom et al.	:	FOR REVIEW OF
Patent No. 7,122,207	:	PATENT TERM ADJUSTMENT
Application No. 09/848448	:	and
Filing or 371(c) Date: 05/03/2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. TN1A CIP	:	CERTIFICATE OF CORRECTION

This letter is in response to the "PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b)," filed November 17, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 446 days.

The request for review of the determination of patent term adjustment (PTA) 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 seventy-seven (377)** days.

On October 17, 2006, the above-identified application matured into U.S. Patent No. 7,122,207, with a revised patent term adjustment of 446 days. On November 17, 2006, patentee submitted the instant comment. Patentee states no basis for the request for review of the patent term adjustment.

Nonetheless, a review of the application history confirms that an incorrect number of days were determined for Applicant delay. A review of the application history reveals that the reduction of 10 days for applicant delay in filing a supplemental response on March 13, 2003, after filing an Amendment on March 3, 2003, in response to the final Office action mailed January 24, 2003, is incorrect. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following

circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, after filing a response (Amendment), on March 3, 2003, applicants filed a supplemental response, an Information Disclosure Statement (IDS), on March 13, 2003. However, as the Amendment filed March 3, 2003 was not in compliance with 35 U.S.C. § 1.113(c) , the period for reply to the final rejection mailed January 24, 2003, continued to run. The proper reply, a Notice of Appeal, was not received in the Office until April 28, 2003. Pursuant to 37 CFR § 1.704(b), the patent term adjustment should have been reduced by four days for applicant delay, from April 25, 2003, to April 28, 2003, in filing a proper reply to the final rejection.

Additionally, Applicant should have been assessed an additional delay of seventy-five (75) days pursuant to 37 C.F.R. § 1.704(c)(8). After filing a Request for Continued Examination ("RCE") on January 14, 2004, Applicants filed a supplemental response, an Information Disclosure Statement (IDS)on March 29, 2004. The record supports a conclusion that this additional response was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement[1]. Accordingly, the PTA should have been reduced by 75 days, the number of days beginning on the day after the date the initial reply was filed, January 15, 2004, and ending on the date that the second supplemental reply or other such paper was filed, March 29, 2004.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is THREE HUNDRED SEVENTY-SEVEN (377) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant 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

---

[1] 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 <u>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.</u> This thirty-day period is not extendable. 37 CFR 1.704(d) (Emphasis supplied).

correction indicating that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED SEVENTY-SEVEN (377)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

Day : Monday
Date: 8/20/2007

PALM INTRANET

Time: 12:35:00

PTA Calculations for Application: 09/848448			
Application Filing Date:	05/03/2001	PTO Delay (PTO):	477
Issue Date of Patent:	10/17/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	377
PTO Delay Adjustment:	-69		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		75	
101	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
100	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	10		
95	10/17/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	24		90
94	08/28/2006	EXPORT TO FINAL DATA CAPTURE			
93	08/25/2006	DISPATCH TO FDC			
92	08/25/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
91	08/25/2006	WORKFLOW - REQUEST FOR RCE - FINISH			
90	05/23/2006	ISSUE FEE PAYMENT VERIFIED			
89	08/17/2006	FINISHED INITIAL DATA CAPTURE			
88	05/26/2006	CORRESPONDENCE ADDRESS CHANGE			
87	05/23/2006	ISSUE FEE PAYMENT RECEIVED			
85	02/27/2006	MAIL NOTICE OF ALLOWANCE			
84	02/27/2006	MAIL EXAMINER'S AMENDMENT			
83	02/21/2006	ISSUE REVISION COMPLETED			
82	02/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	02/21/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
80	10/04/2001	REFERENCE CAPTURE ON IDS			
79	02/17/2006	EXAMINER'S AMENDMENT COMMUNICATION			
78	02/17/2006	NOTICE OF ALLOWABILITY			
77	02/09/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	01/25/2006	REFERENCE CAPTURE ON IDS			

75	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	11/28/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
70	12/07/2005	DATE FORWARDED TO EXAMINER			
69	11/28/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
68	12/07/2005	DATE FORWARDED TO EXAMINER			
67	11/28/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	65
66	12/07/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
65	08/23/2005	MAIL FINAL REJECTION (PTOL - 326)	12		62
64	08/19/2005	FINAL REJECTION			
63	04/14/2005	DATE FORWARDED TO EXAMINER			
62	04/11/2005	RESPONSE AFTER NON-FINAL ACTION			
61	11/03/2004	EXPORT TO INITIAL DATA CAPTURE			
60	01/11/2005	MAIL NON-FINAL REJECTION	242		54
59	01/10/2005	NON-FINAL REJECTION			
58	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	12/20/2004	DATE FORWARDED TO EXAMINER			
56	01/14/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	12/20/2004	DATE FORWARDED TO EXAMINER			
54	01/14/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	12/20/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	11/10/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
51	01/14/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	10/21/2003	MAIL NOTICE OF ALLOWANCE	110		27
49	10/21/2003	MAIL EXAMINER'S AMENDMENT			
48	10/20/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

47	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
46	10/20/2003	EXAMINER'S AMENDMENT COMMUNICATION			
45	10/20/2003	NOTICE OF ALLOWABILITY			
44	10/15/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	09/17/2003	DATE FORWARDED TO EXAMINER			
42	09/08/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	09/08/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	08/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/12/2003	MAIL ADVISORY ACTION (PTOL - 303)			
37	08/09/2003	ADVISORY ACTION (PTOL-303)			
36	07/20/2003	DATE FORWARDED TO EXAMINER			
35	07/16/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
34	07/16/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	06/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	04/28/2003	NOTICE OF APPEAL FILED			
31	03/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		10	27
30	03/19/2003	MAIL ADVISORY ACTION (PTOL - 303)			
29	03/18/2003	ADVISORY ACTION (PTOL-303)			
28	03/13/2003	DATE FORWARDED TO EXAMINER			
27	03/03/2003	AMENDMENT AFTER FINAL REJECTION			
26	01/24/2003	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
25	01/24/2003	MAIL FINAL REJECTION (PTOL - 326)			
24	01/23/2003	FINAL REJECTION			
23	01/21/2003	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
21	11/22/2002	DATE FORWARDED TO EXAMINER			
20	10/29/2002	RESPONSE AFTER NON-FINAL ACTION			
19	10/29/2002	TERMINAL DISCLAIMER FILED			
18	08/08/2002	MAIL NON-FINAL REJECTION	89		15
17	07/25/2002	NON-FINAL REJECTION			
16	07/25/2002	DATE FORWARDED TO EXAMINER			

15	01/11/2002	RESPONSE TO ELECTION / RESTRICTION FILED		16	10
14	01/11/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	07/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	03/18/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	10/04/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/26/2001	MAIL RESTRICTION REQUIREMENT			
9	09/26/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
8	09/10/2001	PETITION DECISION - GRANTED			
7	07/25/2001	PETITION ENTERED			
6	08/02/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	08/01/2001	APPLICATION DISPATCHED FROM OIPE			
4	07/11/2001	CORRESPONDENCE ADDRESS CHANGE			
3	07/11/2001	CORRESPONDENCE ADDRESS CHANGE			
2	06/28/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/03/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,122,207 B2

DATED : October 17, 2006

INVENTOR(S) : Ullah 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 (446) days

Delete the phrase "by 446" and insert – by 377 days--

"Draft"

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
MAY 0 2 2006
OFFICE OF PETITIONS

Foley & Lardner
150 East Gilman St.
PO Box 1497
Madison, Wisconsin 53701-1497

In re Application of
Ambuel et al.
Application No. 09/848,449
Patent 7,008,651
Filed: May 3, 2001
Attorney Docket No. 039638-0157

: DECISION DISMISSING LETTER

This letter is in response to applicants' "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed March 16, 2006, advising the Office of a discrepancy in the PTA determination. The Office thanks applicants for their good faith and candor in bringing any discrepancy to the attention of the Office.

The letter submitted by Applicants is **Dismissed.** The patent term adjustment at the time of the issuance of the patent is confirmed.

Applicants assert that there is a discrepancy in the PTA determination. Applicants do not provide information as to why such determination is incorrect. If applicants point out specifically why they believe such to be inaccurate, the Office could review such alleged inaccuracy.

Upon review of the determination, the PTA determination is accurate. The Office notes that it failed to issue the application within three years of the filing date. The actual delay in issuing the patent was six hundred and seventy-three days (673) under 37 CFR 1.702(b). Applicant delayed on three occasions under 37 CFR 1.704(b) for a period of one hundred and sixty-five (165) days. Accordingly, the correct a mount of PTA is five hundred and eight (508) days.

Because this letter was submitted out of good faith and candor, no fee will be assessed concerning this letter.

Any questions related to this decision can be addressed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

PARSONS HSUE & DE RUNTZ
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

COPY MAILED
MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of	:
Thomas W. Hagler	: DECISION DISMISSING
Application No. 09/848,614	: PETITION UNDER
Filed: May 3, 2001	: 37 CFR 1.137(b)
Attorney Docket No. M-10489-1P US	:

This is a decision on the petition, filed August 18, 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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 6, 2003. 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.

A review of the file indicates that no reply to the non-final Office action of July 8, 2002 has been filed. A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, a reply to the Office action must be provided along with an unintentional delay statement required by 37 CFR 1.137(b)(1).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
Attn: Office of Petitions

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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

PARSONS HSUE & DE RUNTZ
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

COPY MAILED

MAY 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Thomas W. Hagler	:	
Application No. 09/848,614	:	DECISION GRANTING PETITION
Filed: May 3, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. M-10489-1P US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 8, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 9, 2002.

The first petition fee is unnecessary. Therefore, a refund of $650.00 is being credited to Deposited Account No. 50-2664.

A Notice Regarding Rescission of Nonpublication Request projected publication date will be mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

The application is being forwarded Technology Center AU 2877.

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

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

JUL 2 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,768,355 :

Issue Date: July 27, 2004 :

Application No. 09/848,625 : ON PETITION

Filed: May 3, 2001 :

Attorney Docket No. **50019.51US01/P04881**

This is a decision on the petition filed November 15, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

APR 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, New York 10022-2585

In re application of
Shelton Harrison et al.
Application No. 09/848,639
Filed: May 3, 2001
For: ELECTRONIC BOND & GUARANTY PROCESS AND BUSINESS METHOD

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 23, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 23, 2004 lacks requirement 2(C) above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not all that related to the invention.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 4/27/04

OIPE JC109
JUN 07 2004
PATENT & TRADEMARK OFFICE

3628 FFW
P

In the United States Patent and Trademark Office

Application number: 09/848639
Filing date: May 3, 2001
Applicant: Shelton E. Harrison, Jr.
Art Unit: 3628
For: ELECTRONIC BOND & GUARANTY PROCESS AND BUSINESS METHOD

Mailed: May 30, 2004
At: Los Angeles, California

RESPONSE TO DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

Dear Mr. Dorner, Technology Center 3600,

I am in receipt of your April 30, 2004, correspondence denying my petition to make special and am submitting this reply to remedy the defects in the prior submission.

Below appears a declaration as required in your letter in reference to MPEP 708.02(II)C.

Also, attached are the required most closely related pieces of prior art. Specifically, included are print-outs from the Billpoint site in Spring 2001 and the Escrow.com site in Spring 2001, as stored on the servers at www.archive.org. At the time of the present invention, these were the two best pieces of prior art: Billpoint/eBay was the most integrated Internet auction service, and Escrow.com offered the most security for Internet auction payments. As shown in the two website descriptions of the processes, payment under either prior system could take days or weeks, depending on how responsive a given winning bidder was. In fact, payment under these systems could never occur at all, since neither of these providers offered any protection against deadbeat bidders, i.e., no *automatic* payment. Nor could either service have dared offer an automatic payment, since there was no

collateral secured in advance from bidders.

The present invention, therefore, in providing instantaneous payment the moment an auction closes and in providing 100% protection against deadbeat bidders as well as seller fraud/default, represented a leap beyond the prior art both in terms of both speed and security, as well as in simplicty and convenience.

I hope that the present submission remedies the defects in the previously submitted Petition and hereby request reconsideration of the Petition to Make Special.

Thank you for your reconsideration of this matter. Please contact me at the number below or by email to shel@epoet.com if you require any additional information or documentation to grant this petition.

Respectfully submitted,

Shelton E. Harrison, Jr.

310-500-5593

Declaration in Support of Petition to Make Special

Reason II - Infringement Exists

In support of the previously submitted Petition to Make Special, Applicant declares as follows:

1. I am the applicant of the above-identified patent application.

2. I hereby declare that I have made a careful and thorough search of the prior art and have a good knowledge thereof.

3. I am attaching to this declaration a print out of the "most closely related" art as required in MPEP 708.02.

4. I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true, and further that the statements were made with a 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 U.S.C., and that such willful false statements may jeopardize the validity of the application and any patent issuing therefrom.

Respectfully submitted,

Shelton E. Harrison, Jr.

6225 Canterbury Drive #105
Culver City, California 90230
310-500-5593

Attached: Print-outs of Billpoint.com website and Escrow.com website,

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

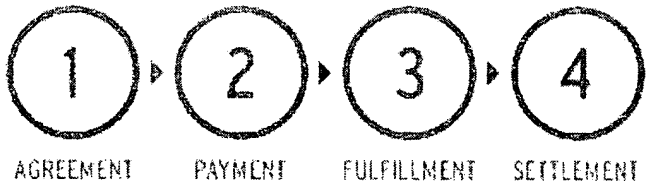
IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images, please do not report the images to the Image Problem Mailbox.

Escrow.com

Solutions
- Business
- Consumer

Services
- Transaction Settlement
  - Escrow
    - Process Overview
    - Business
    - Consumer
- Domain Name Escrow
- Global Trade
- Vehicle



Escrow.com's easy 4-step process

1. Agreement: Either the Buyer or Seller begins by specifying terms and providing information about the merchandise. If they agree on these, the transaction can proceed.

2. Payment: The Buyer submits payment to Escrow.com's escrow subsidiary, Internet Escrow Services* (IES), where it's verified. IES then deposits it in a trust account.

3. Fulfillment: Escrow.com notifies the Seller that the Buyer's payment is securely held in escrow. The Seller then delivers the merchandise to the Buyer.

4. Settlement: The Buyer decides to accept or reject his purchase within the agreed upon timeframe. If the Buyer accepts it, IES releases payment to the Seller.

Learn about the escrow process in detail.

All escrow services offered on this Website are provided independently and exclusively by Internet Escrow Services, Inc. (IES), one of the operating subsidiaries of Escrow.com. IES is fully licensed and accredited as an escrow company and is subject to compliance with all applicable escrow regulations, including the California Financial and Business Code.

Step 1: Agreement

Summary: Escrow.com requires both parties to agree to the terms in order to begin a new transaction

1. Either Buyer or Seller signs in to Escrow.com and creates a transaction. If either party is not a registered user, they must register with Escrow.com. **Registration is free.**

2. Define the terms of the transaction and provide information about the merchandise. This information includes:

   - E-mail address of the other party
   - Length of Inspection Period
   - Party responsible for paying Escrow Fee
   - Delivery Methods
   - Shipping Costs

3. Confirm the information provided, and agree to the escrow instructions.

4. The other party will be notified by e-mail, to sign in, review, and confirm the information you have provided regarding the transaction.

5. After both parties have agreed to the terms of the transaction, **the Buyer will be asked to submit payment.**

Go to Step 2: Payment

All escrow services offered on this Website are provided independently and exclusively by Internet Escrow Services, Inc. (IES), one of the operating subsidiaries of Escrow.com. IES is fully licensed and accredited as an escrow company and is subject to compliance with all applicable escrow regulations, including the California Financial and Business Code.

Copyright © 2001 Escrow.com. All rights reserved.
Terms of Use | Privacy Policy

Step 2: Payment

Summary: The Buyer submits payment, where it is verified and secured into a trust account

1. The Buyer submits their payments to IES*. Several payment methods are available.
2. When payment is received, it will be verified and secured into a trust account.
3. After payment is secured, **the Seller is prompted to ship the merchandise to the Buyer.**

Go to Step 3: Fulfillment

All escrow services offered on this Website are provided independently and exclusively by Internet Escrow Services, Inc. (IES), one of the operating subsidiaries of Escrow.com. IES is fully licensed and accredited as an escrow company and is subject to compliance with all applicable escrow regulations, including the California Financial and Business Code.

Copyright © 2001 Escrow.com. All rights reserved.
Terms of Use | Privacy Policy

Step 3: Fulfillment

Summary: With the Buyer's payment secured, the Seller ships the merchandise to the Buyer without fear of fraud

1. The Seller ships the merchandise to the Buyer using an appropriate delivery service.

2. The Seller must initially pay for the shipment of the merchandise. If the buyer is responsible for shipping costs, the Seller will be reimbursed when the transaction is complete.

3. After shipment, the Seller will sign in to Escrow.com and provide tracking information, if necessary.

4. If available, the Buyer can track the shipment with the tracking information.

Go to Step 4: Settlement

All escrow services offered on this Website are provided independently and exclusively by Internet Escrow Services, Inc. (IES), one of the operating subsidiaries of Escrow.com. IES is fully licensed and accredited as an escrow company and is subject to compliance with all applicable escrow regulations, including the California Financial and Business Code.

Copyright © 2001 Escrow.com. All rights reserved.
Terms of Use | Privacy Policy

Step 4: Settlement

Summary: The Buyer accepts the merchandise after inspecting it. IES releases payment to the Seller

1. The Buyer may examine the merchandise within the inspection period.
2. If the Buyer accepts the merchandise, the disbursement of payment will begin.
3. Payment is released to the Seller with escrow fees and shipping costs deducted, if applicable.

Rejecting the Merchandise

1. If the Buyer rejects the merchandise, the Buyer will be responsible for paying 100% of the escrow fees. The buyer may reject the item for any reason.
2. If the Buyer clicks on the **Reject** button during the inspection period, Escrow.com will e-mail the Buyer and Seller indicating the Buyer's decision to reject and return the merchandise to the Seller.
3. The Buyer will promptly return the merchandise to the Seller's address, which is provided to the Buyer in the e-mail notification.
4. The Buyer is solely responsible for all shipping and insurance costs. Shipment must be made by the courier that shipped the merchandise from the Seller to the Buyer.
5. Immediately after shipment, the Buyer will sign in to Escrow.com and submit the shipping information. This includes the name of the courier and tracking information. It is the Buyers responsibility to accurately provide this information.
6. When shipping information is received, Escrow.com will e-mail the Buyer and Seller indicating that the merchandise has been shipped. This e-mail will include the name of the courier and tracking information to allow the Buyer to track the shipment.

7. If the Buyer returns the merchandise to the Seller without following the above guidelines. Escrow.com will not return any funds held in escrow unless and until a) the Seller confirms that the returned merchandise arrived in the condition it was sent and b) there is a Resolution of Dispute.

Seller Accepts Returned Merchandise

1. If the Seller clicks the **Accept** button during the inspection period, the Seller will have officially accepted the returned merchandise. The disbursement of payment will then begin.

2. The Seller is allowed an inspection period of 5 days.

3. If the Seller fails to click the **Accept** or **Reject** button during the inspection period, Escrow.com will conclude that the Seller is satisfied with the returned merchandise and will begin the process of disbursing the payment:

If the Buyer agreed to pay the Shipping Fee:

- Escrow.com will pay the Buyer the Purchase Amount less the Escrow Fee that the Buyer agreed to pay, if any.
- Escrow.com will reimburse the Seller for the Shipping Fee shown in the Transaction Detail Screen.

If the Seller agreed to pay the Shipping Fee:

- Escrow.com will pay the Buyer the Purchase Amount less the Escrow Fee that the Seller agreed to pay, if any.

4. Upon completion of the disbursements, escrow shall be deemed closed and final, and the transaction between the Buyer and the Seller will be officially over.

Seller Rejects Returned Merchandise

1. If the Seller clicks the **Reject** button during the Inspection Period, Escrow.com will e-mail the Buyer and Seller indicating the Seller's decision to reject the returned merchandise.

2. The Seller is allowed an Inspection Period of 5 days.

3. If the Seller chooses to reject the merchandise, both parties will be deemed to have a "dispute" regarding either: a) the condition of the returned merchandise or b) the allocation of disbursed funds held in escrow between the Buyer and Seller to compensate the Seller for the diminution in value of the returned merchandise, taking into consideration the insurance obtained during shipment.

4. Escrow.com will continue to hold the funds in escrow until the dispute is resolved.

5. Upon completion of the disbursements after resolution of the dispute, escrow shall be deemed closed and final, and the transaction between the Buyer and Seller will be officially over.

Return to the Escrow Process

All escrow services offered on this Website are provided independently and exclusively by Internet Escrow Services, Inc. (IES), one of the operating subsidiaries of Escrow.com. IES is fully licensed and accredited as an escrow company and is subject to compliance with all applicable escrow regulations, including the California Financial and Business Code.

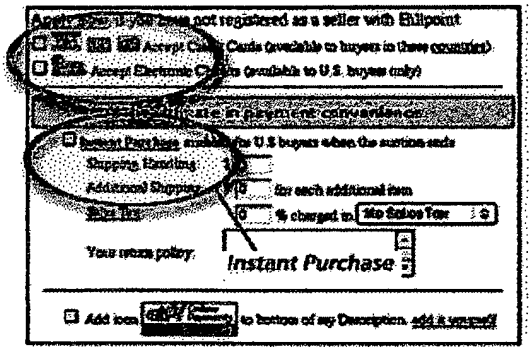
Copyright © 2001 Escrow.com. All rights reserved.
Terms of Use | Privacy Policy

eBay Online Payments™ ***Quick Tour***

Next Close Quick Tour

1 Seller Lists Item 2 3

Sell Your Item



Step 1: Seller Lists Item

When listing items on eBay using the Sell Your Item form, Mr. Lister, or other listing tools, the seller should choose eBay Online Payments by Billpoint.

The seller can choose to accept **credit card payment, electronic check payment**, or **both**.

For the fastest and most convenient payments, the seller should offer **Instant Purchase** and specify shipping, handling, sales tax, and other payment information during listing. Buyers will be able to pay immediately after the auction ends!

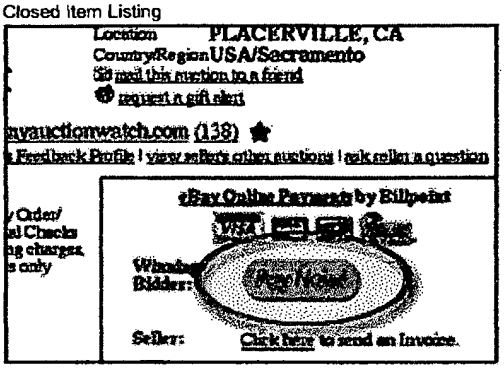
Next Close Quick Tour

Billpoint.com

BEST AVAILABLE COPY

BEST AVAILABLE COPY

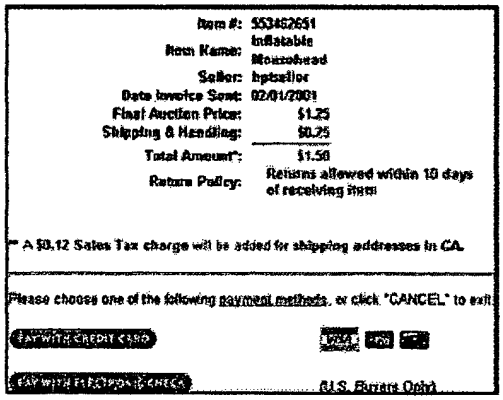
Closed Item Listing



Step 2: Buyer Pays for Item

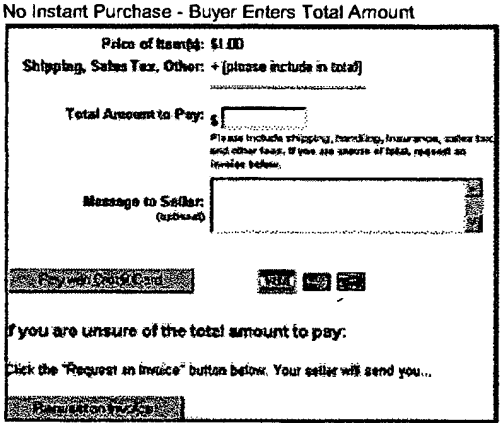
After the auction ends, the high bidder can pay for the item by returning to the Item Listing page and simply clicking on the "**Pay Now**" button (no registration is required).

Instant Purchase



If the listing offers **Instant Purchase**, the total amount will be filled in already.

No Instant Purchase - Buyer Enters Total Amount



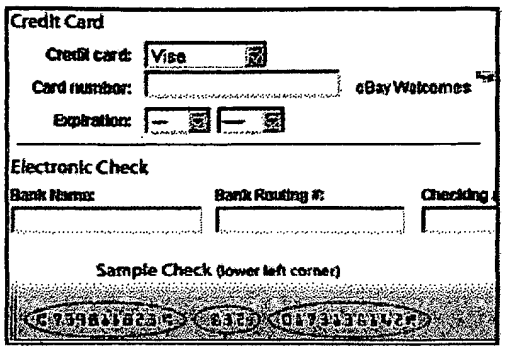
If the listing does not offer Instant Purchase, the high bidder types in the total amount of the purchase, including any shipping & handling, sales tax, insurance, etc. charges.

If the high bidder doesn't know the total amount, he can click on the Request an Invoice button and the seller will send a Billpoint Invoice for the total amount.

The seller can send an Invoice by clicking on the Send an Invoice link on the View Item page and entering final payment details. Optionally, sellers can set a preference in My Billpoint to prevent high bidders from paying before Invoices are sent.

Credit Card Payment and Electronic Check

The buyer can issue payment by entering credit card or checking account information. (If previously registered, the buyer can pay in one step by using their Billpoint account.)



Back Next Close Quick Tour

Confirmation E-mail

Dear Buyer,

Thank you for your Billpoint payment! This e-mail is your receipt to confirm your purchase -- you may want to keep it for your records. vintagedecco@aol.com has been sent an e-mail confirming your payme

This order will appear on your credit card statement as "bpt*eBay vintagedecco@a".

Order Information (Order Reference ID: RSA8TPQ)

Item : 8 vegetable crate labels
Item #: 521180773
Site: eBay

Total: $15.25
Amount Charged: $14.25 ($1 Off with Visa)
Date Order Placed: 12/08/2000

Step 3: Confirmation

After payment is completed, both the buyer and the seller will receive a **payment confirmation e-mail** from Billpoint.

(Please note that electronic check payments take 3-4 business days before they are confirmed.)

Order Detail

Order Detail for johnsmith

Order Reference ID: SHT82FR

Invoice Information		Payment
Item #:	[illegible]	Item
Item:	Snowflake rug	Shipping & C
Category:		
Site:		
Payment Method:	Credit Card	$1 Off
Status:	Invoice paid by buyer	Amoun
Invoice Paid:	11/30/00	
Seller Message:	Hi there. Here is your Billpoint invoice	Credit C

Both buyers and sellers can return to the item listing page to **view payment details**, such as shipping address, form of payment, contact information, etc.

BEST AVAILABLE 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

MAILED

NOV 19 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Shelton E. Harrison, Jr.
6643 Poplar Pike
Memphis, TN 38119

In re application of
Shelton E. Harrison, Jr., et al.
Application No. 09/848,639
Filed: May 3, 2001
For: ELECTRONIC BOND & GUARANTY PROCESS AND BUSINESS METHOD

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the renewed petition under 37 C.F.R. § 1.102(d) filed June 7, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The renewed petition filed June 7, 2004, taken with the petition filed February 23, 2004, meet 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

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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 11/18/04

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

GLENN GOLD, P.A.
SUITE 450
600 NORTH PINE ISLAND RD.
PLANTATION, FL 33324

In re Application of
Singhal et al.
Application No. 09/848,441
Filed: 3 May, 2001
Attorney Docket No. 6020.0100

In re Application of
Singhal et al.
Application No. 09/848,662
Filed: 3 May, 2001
Attorney Docket No. 6020.0200

COPY MAILED

DEC 17 2001

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed on 4 September, 2001, in Application No. 09/848,662, which is being treated as a petition under 37 CFR 1.181 to correct the files of the above-identified applications.

Applicants request that the specification filed in Application No. 09/848,441 on 3 May, 2001, be transferred to the file of Application No. 09/848,662, and that the specification filed in Application No. 09/848,662, on 3 May, 2001, be transferred to the file of Application No. 09/848,441, and that the applications be accorded filing dates of 3 May, 2001, with the specifications as part of the original disclosures.

Applicants' attorney, Glenn E. Gold, explained that the specification and declaration for Application No. 09/848,441 was inadvertently filed with the drawings for Application No. 09/848,662, and that the specification and declaration for Application No. 09/848,662 was inadvertently filed with the drawings for Application No. 09/848,441.

The Office notes that there appears to be no inconsistency between the declaration and specification for each application. The declaration for Application No. 09/848,441 lists the invention title as "Location Aware Service Proxies in a Short-Range Wireless Environment," the same invention title that appears on the first page of the specification for Application No. 09/848,441. Additionally, the application cover sheet itemizes the filing of seven (7) sheets of drawings. Seven (7) sheets of drawings are located in the application file. Likewise, the declaration for Application No. 09/848,662 lists the invention title as "Method and System for Adapting Short-Range Wireless Access Points for Participation in a Coordinated Networked Environment," the same invention title that appears on the first page of the specification for Application No. 09/848,662. Additionally, the application cover sheet itemizes the filing of five (5) sheets of drawings. Five (5) sheets of drawings are located in the application file.

It is noted, however, that the specification filed in Application No. 09/848,441 describes five (5) drawing figures, while seven (7) drawing figures were present on filing. Likewise, the specification filed in Application No. 09/848,662 describes seven (7) drawing figures, while only five (5) drawing figures were present on filing. It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on 3 May, 2001, since the drawing described in the specifications were not received with the respective specifications. However, since the drawings were in fact present in the USPTO on 3 May, 2001, the applications may be accorded filing dates of 3 May, 2001, on petition under 37 CFR 1.182.

The seven (7) sheets of drawings filed on 3 May, 2001, in Application No. 09/848,441 will be removed and transferred to Application No. 09/848,662.

The five (5) sheets of drawings filed on 3 May, 2001, in Application No. 09/848,662 will be removed and transferred to Application No. 09/848,441.

Application No. 09/848,441 will be reprocessed with the five (5) sheets of transferred drawings, containing Figures 1-5 filed on 3 May, 2001.

Application No. 09/848,662 will be reprocessed with the seven (7) sheets of transferred drawings, containing Figures 1-7 filed on 3 May, 2001.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 09/848,441 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 3 May, 2001, using the five (5) sheets of drawings containing Figures 1-5 filed on 3 May, 2001, and for correction of Office records to indicate that five (5) sheets of drawings were filed on that date. Thereafter, the application file will be forwarded to Technology Center 2600 for examination in due course.

Application No. 09/848,662 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 3 May, 2001, using the seven (7) sheets of drawings containing Figures 1-7 filed on 3 May, 2001, and for correction of Office records to indicate that seven (7) sheets of drawings were filed on that date. The application will remain in OIPE until pre-examination processing is complete.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7
COPY MAILED

JUL 07 2003

OFFICE OF PETITIONS

JOHN MASON
THE FURNITURE DOCTOR
102 LLOYD STREET
CARRBORO, NC 27510

In re Application of
Clifton et al
Application No. 09/848,666
Filed: August 16, 2001
For: NOVEL POLISH COMPOSITIONS AND METHOD OF USE

LETTER HOLDING DECISION IN ABEYANCE AND REQUESTING SUBMISSION OF DOCUMENT

A petition under 37 CFR 1.182, signed by one of the two named inventors in the above-referenced application, was filed on August 16, 2001, requesting that this application be accorded a new filing date. During a telephone interview with the inventor who had signed the petition, Michael G. Kinnaird ("Kinnaird"), the Office learned that the other inventor, John Clifton Mason ("Mason"), was deceased.

Under 37 CFR 1.33(b), papers filed in a patent application must be signed by an attorney or agent registered to practice before the USPTO, an assignee, or **all** of the applicants, i.e., all of the inventors named in a U.S. patent application. Since Mason is deceased, his legal representative[1] may continue prosecuting this application on his behalf. In other words, a petition, an amendment in response to an Office action issued by an examiner, or other correspondence filed in the USPTO **must be signed by**, in addition to Kinnaird, Mason's legal representative (executor, administrator, etc.), in Mason's signature block, identifying himself/herself as Mason's legal representative.

If, on the other hand, Mason's undivided interest in the claimed invention has been assigned, the partial assignee must, along with Kinnaird, sign all the correspondence filed in the USPTO, provided that the partial assignee has become of record in the USPTO by filing a statement in compliance with 37 CFR 3.73(b).[2]

In order for the Office to review the August 16, 2001 §1.182 petition on its merits, a supplemental petition signed by Mason's legal representative or assignee, whichever is appropriate, must be submitted within **THIRTY (30) DAYS** of the mailing date of this letter to:

-by mail/by hand: Commissioner for Patents
USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

-by fax: (703) 308-6916
Attn: Office of Petitions

---

[1] Or Mason's heirs, if: (1) Mason did not leave a will; (2) there was a will but no executor or administrator was appointed. MPEP 409.01(a) (Rev.1, Feb. 2003).

[2] 37 CFR 3.71(c). A blank form is attached for use by Mason's assignee, if appropriate.

Finally, the Office notes that a non-final Office action was mailed on June 25, 2003, giving Applicants a 3-month shortened statutory reply period, i.e., a reply period extendable by up to 3 more months. However, that reply period is independent of, and is **not** suspended or affected by, the 30-day period set forth in the instant letter.[3]

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Form PTO/SB/96 (04-03) Statement under 37 CFR 3.73(b)

---

[3] MPEP section 710.04 (Rev. 1, Feb. 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

SHAKEEL MUSTAFA
15520 TUSTIN VILLAGE WAY Apt. # 2
TUSTIN CA 92780

MAILED

FEB 2 8 2002

Technology Center 2100

In re Application of : S. Mustafa
Application No. 09/848,670
Filed: May 4, 2001
For: SYSTEM AND METHOD FOR ENCRYPTING AND DECRYPTING INFORMATION THROUGH THE USE OF RANDOM NUMBERS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed January 28, 2002. In light of the content of the petition, it will be treated first under 37 C.F.R. §102(b), and then 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

37 C.F.R. §102(b) states:

> (b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

Petitioner's submission fails to meet the criteria set out in 37 C.F.R. §102(b). There is no record of a department head of government requesting immediate action on this case due to the peculiar importance of the invention.

Next, M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to encrypting and decrypting information which does not directly relate to countering violent acts or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. While applicant indicates that the invention is strategically important to national security, this does not persuasively establish that the invention represents an advancement in the field of countering terrorism. Finally, no petition fee has been submitted as per 37 C.F.R. 1.17(h).

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.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

AUG 2 6 2005

Technology Center 2100

SHAKEEL MUSTAFA
24831 Hendon St.
Laguna Hills, CA 92653

In re Application of: MUSTAFA Application No. 09/848,670 Filed: 4 May 2001 For: SYSTEM AND METHOD FOR ENCRYPTING AND DECRYPTING INFORMATION THROUGH THE USE OF RANDOM NUMBERS	)))))))	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, filed 25 July 2005 requesting the Withdrawal of the Abandoned status of the above-identified application, which was deemed abandoned for failure to respond to the Office Action mailed 8 September 2004. A Notice of Abandonment was mailed 01 June 2005.

The petition is **GRANTED.**

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, applicant provides a statement that the Office action was not received. Applicant also provides a copy of a submission regarding Aplicant's change of address that was faxed to the USPTO on 17 July 2004, and acknowledged with an auto-reply on the same date. The subsequent Office Action, mailed 8 September 2004, did not apply the change of address in the mailing of the correspondence to Applicant. Consequently, the Office Action was returned to the USPTO on 5 October 2004 as undeliverable.

Applicant's offering and the USPTO'S records, taken together, provide clear evidence that Applicant did not receive the 8 September 2004 Office Action.

Despite the fact that the petition does not specifically conform to the criteria called for supra, Applicant's proffered evidence with the USPTO's records, make a prima facie case establishing the non-receipt of the Office action. The petition is therefore **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, enter Applicant's Amendment dated 3 April 2005, so that the instant application is restored to pending status and the Amendment is properly placed in the Examiner's docket.

Any questions regarding this decision may be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

GO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 28, 2005

TO SPE OF : ART UNIT 1621 (*Johann Richter*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,924,391

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the claims, Amdt. dated 10/7/04, the NOA, and the cert. of correction. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1621

SPE — **Art Unit** 1621

OIPE IAP62
DEC 1 2 2005
PATENT & TRADEMARK OFFICE

Attorney Docket Number: QA211

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Lorianne Kazmercyk		Dec. 8, 2005
Type or print name	Signature	Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

BANVILLE ET AL.

APPLICATION NO: 09/848,694

(now U.S. Pat. 6,924,391) B2

FILED: MAY 3, 2001

FOR: ALPHA-AMINO, -THIO, -OXO SUBSTITUTED KETONES AS PHOSPHOLIPASE INHIBITORS

Certificate
DEC 1 5 2005
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Decision and Certification Branch of Patent Issue Division

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.322

Sir:

The above patent application Serial No. 09/848,694 issued as U.S. Pat. No. 6,924,391 on August 2, 2005. Applicants hereby request a certificate of correction for the errors set forth on form PTO/SB/44 attached hereto as Appendix A. Remarks regarding the corrections are set forth below on pages 2-4.

DEC 1 6 2005

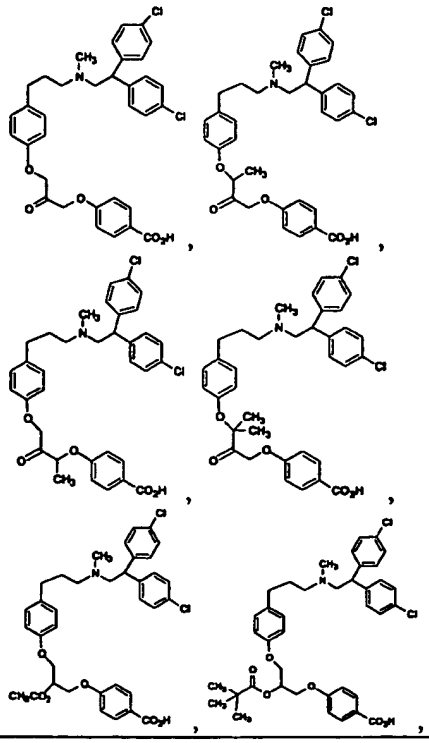
REMARKS

For the USPTO's convenience, Applicants have attached the following appendices:

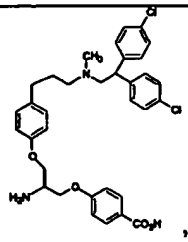
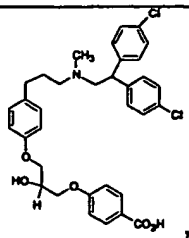
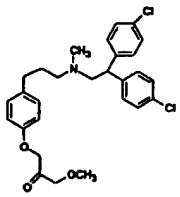
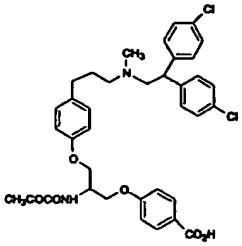
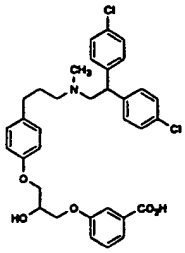
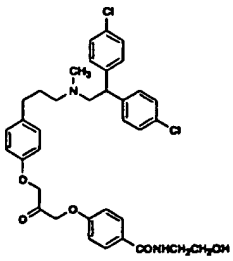
- A completed form PTO/SB/44 listing all the corrections sought to be made herein (Appendix A).
- Copies of the Office Action mailed July 8, 2004, the Amendment filed October 7, 2004 and the Notice of Allowance (Appendix B).

Each of the errors, depicted in Table 1, occurred through the fault of the USPTO, for which correction is sought under 37 C.F.R. 1.322. Applicants submit these corrections present no new matter and do not require further examination. Remarks regarding each of the corrections follow the Table.

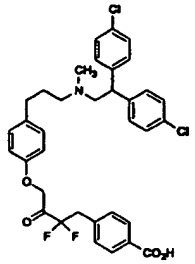
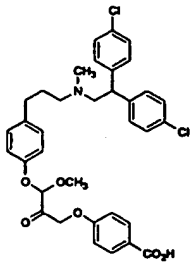
Table 1

Error Number	Column and Page	Error	Correction
1	Col. 119, line 2	Numerous compounds are missing from claim 1.	After "A compound selected from", the following formulae should be added: 

DEC 1 6 2005

			 ,  , and 
2	Col. 119, lines 45-65	The structure is incorrect	Replace the printed structure with the following: 
3	Col. 120, lines 25-45	The structure is incorrect	Replace the printed structure with the following: 
4	Col. 122, lines 25-45	The structure is incorrect	Replace the printed structure with the following: 

DEC 1 6 2005

5	Col. 122, lines 45-65	The structure is incorrect	Replace the printed structure with the following: 
6	Col. 125, lines 20-40	The structure is incorrect	Replace the printed structure with the following : 

In Error 1, nine compounds were omitted from claim 1. These compounds were allowed in claim 11 of Applicants' Amendment dated October 7, 2004.[1] Applicants submit that the nine unmarked compounds shown on page 10 of the Amendment have been omitted from claim 1 of the patent and should be added to the claim following the text "A compound selected from."

Errors 2-6 consist of five structures incorrectly printed. All are USPTO mistakes. This is apparent in comparing the structures found on pages 11-12 of Applicants' Amendment with the printed patent.

As each of the mistakes made are the fault of the USPTO, Applicants believe no fees are required. If a fee is deemed to be required, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 19-3880. The USPTO is requested to kindly contact the undersigned if deemed appropriate to expedite this request.

[1] On page 3 of the Office Action, mailed July 8, 2004, the Examiner states that "Claim 11 will be allowed to the extent it reads on the elected subject matter. Compounds containing Silicon and heterocyclic subject matter should be deleted." As shown on pages 9-13 of Applicants' Amendment, claim 11 was amended to remove silicon and heterocyclic subject matter which reflected the scope of the generic concept of the elected subject matter. On page 2 of the Notice of Allowance, the Examiner states that "specific compounds of claim 11 are now claimed, along with the pharmaceutical composition. These compounds do not read on the above reference and hence are patentable."

DEC 1 6 2005

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

Pamela A. Mingo, Ph.D.
Agent for Applicant
Reg. No. 48,256

Date: December 8, 2005

DEC 1 6 2005

OIPE IAP62
DEC 1 2 2004
PATENT & TRADEMARK OFFICE

APPENDIX A

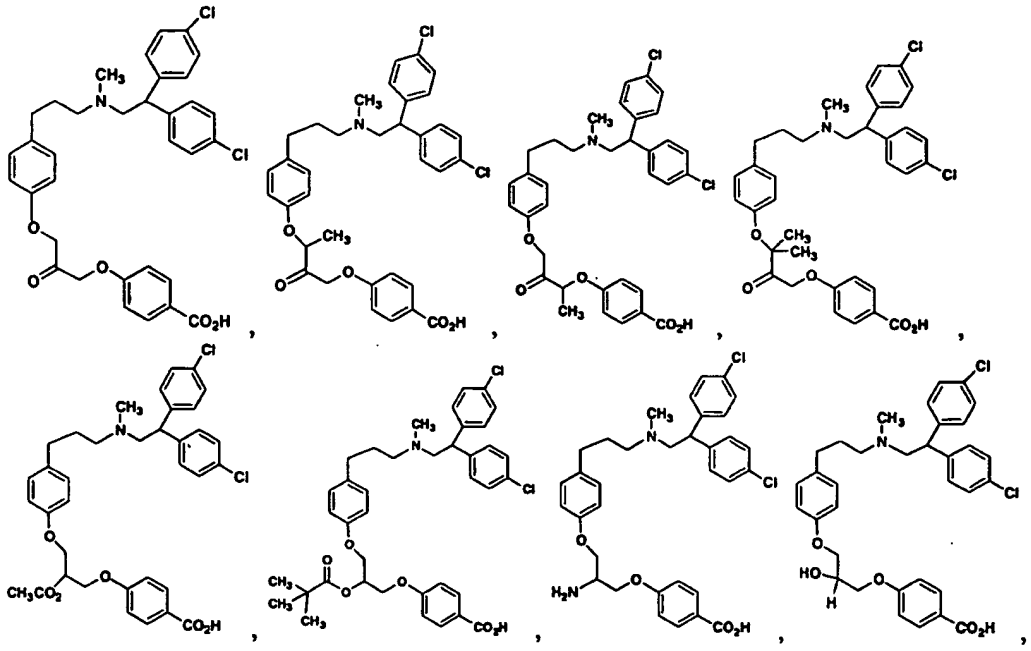
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,924,391 B2
DATED: : August 2, 2005
INVENTOR(S) : Jacques Banville, Roger Remillard, Neelakantan Balasubramanian, Gilles Bouthillier, Alain Martel

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:

Col. 119, line 2, after "A compound selected from", the following formulae should be added:



MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,924,391

FORM PTO/SB/44

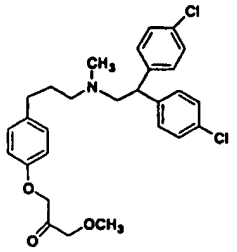
DEC 1 6 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

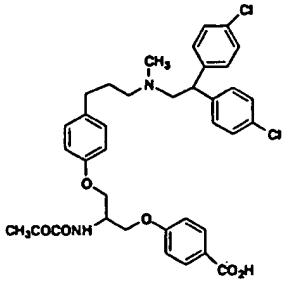
CERTIFICATE OF CORRECTION

PATENT NO : 6,924,391 B2
DATED: : August 2, 2005
INVENTOR(S) : Jacques Banville, Roger Remillard, Neelakantan Balasubramanian, Gilles Bouthillier, Alain Martel

(Continued)



Col. 119, lines 45-65, the formula should appear as follows:



MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,924,391

FORM PTO/SB/44

DEC 1 6 2005

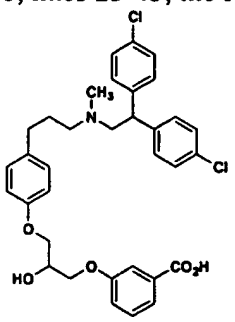
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

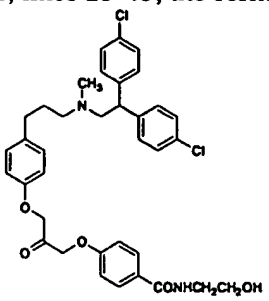
PATENT NO : 6,924,391 B2
DATED: : August 2, 2005
INVENTOR(S) : Jacques Banville, Roger Remillard, Neelakantan Balasubramanian, Gilles Bouthillier, Alain Martel

(Continued)

Col. 120, lines 25-45, the formula should appear as follows:



Col. 122, lines 25-45, the formula should appear as follows:



MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,924,391

FORM PTO/SB/44

DEC 1 6 2009

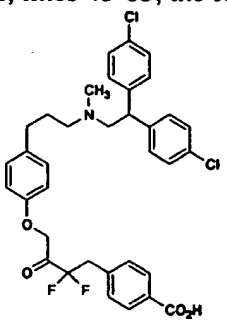
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

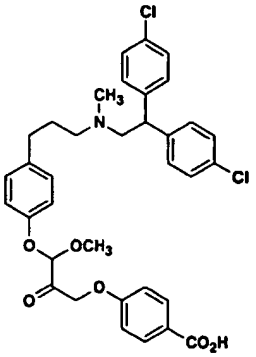
PATENT NO : 6,924,391 B2
DATED: : August 2, 2005
INVENTOR(S) : Jacques Banville, Roger Remillard, Neelakantan Balasubramanian, Gilles Bouthillier, Alain Martel

(Continued)

Col. 122, lines 45-65, the formula should appear as follows:



Col. 125, lines 20-40, the formula should appear as follows:



MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,924,391

FORM PTO/SB/44

DEC 1 6 2009

UNITED STATES 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

DEC 0 4 2003

Director's Office
Group 3700

Attention: Robert Desmond
Honeywell International, Inc.
Law Dept. AB2
P.O. Box 2245
Morristown, NJ 07962-9806

In Re Application of
Joseph ZELINA :
Serial: No. 09/848,701 :
Filed: May 2, 2001 : DECISION ON PETITION
For: Partial Premix Dual Circuit
Fuel Injector

This is a decision on the petition filed by Michael A. Shimokaji on September 5, 2003 to review the holding of abandonment, mailed June 26, 2003 for failure to respond within the statutory period to the Office Action, mailed November 21, 2002.

In support of the request, petitioner stated that Mr. Robert Desmond, Chief Patent Counsel, Engine & Systems of Honeywell International Inc., the assignee of the application has never received said Office Action, as evidenced from the copy of the incoming mail docket for the relevant date(s) and the file's jacket. In addition, Mr. Robert Desmond filed a declaration stating that he has never received neither the original Office Action mailed on, or about 10 October 2002, nor the re-mailing of said Office Action mailed on or about 21 November 2002.

In view of the above, the Notice of Abandonment mailed June 26, 2003 is in error and is hereby vacated. The holding of the abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action. The Examiner is hereby instructed to contact by telephone Mr. Robert Desmond at Tel. (602) 365-2588 to ensure that the mailing address for this application, as registered with the United States Patent and Trademark Office is correct.

Spoke with Mr. Desmond on 2-26-04. He confirmed that the mailing address of record is correct. MB

Summary: Holding of Abandonment Withdrawn.

Richard Bertsch, Director
Groups 3740 & 3750
Phone (703) 308-0975
Fax (703) 308-7764
EG

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED
NOV 21 2006
OFFICE OF PETITIONS

In re Application of
Qian Zhang et al.
Application No. 09/848,706
Filed: May 2, 2001
Attorney Docket No. MS1-716US

ON PETITION

This is a decision on the petition filed August 25, 2006, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided in 37 CFR 1.192(a). A Notice of Appeal was filed July 18, 2005. On July 1, 2005, an appeal brief was filed. On August 25, 2005, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. Accordingly, a Notice of Abandonment was mailed July 5, 2006.

Petitioner argues that a response was in fact timely filed. In support of petitioner's claim is a copy of the response with a certificate of facsimile transmission dated November 10, 2005 and an auto-reply acknowledgment.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay haveadopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, andrequires no more or greater care or diligence than is generally used

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©)).

> and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

In view of the certificate of facsimile transmission, pursuant to 37 CFR 1.8, it is concluded that the response to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was in fact timely filed on November 10, 2005.

The matter is being referred to Technology Center 2142 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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

COPY MAILED

JUN 06 2002

OFFICE OF PETITIONS

THOMAS O. HOOVER
BOWIDITCH & DEWEY, LLP
161 WORCESTER ROAD
FRAMINGHAM, MA 01701

In re Application of
Chen et al.
Application No.0 9/848,767
Filed: May 4, 2001
Attorney Docket Number: 0050.2003-001

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed February 5, 2002, certificate of mailing date January 2, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on May 4, 2001, with a partially executed oath or declaration and naming Chen, Perelman, Zhang, Dasari and Feld as joint inventors.

Accordingly, on July 2, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring the basic filing fee, additional claim fees, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on February 5, 2002, applicant submitted the basic filing and additional claims fees, a $130.00 surcharge for late filing oath or declaration fee, the present petition and a four (4) month request for extension of time to make the petition timely.

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) and (2) as set forth above.

Where an inventor cannot be reached as in the case of inventor Chen rule 47 applicant must demonstrate diligent efforts were made to find or reach a non-signing inventor. See MPEP 409.03(d). The statements made in the petition do not illustrate "diligent effort" was made to locate Mr. Chen. Although rule 47 applicant indicates MIT and joint inventor Dasari were contacted to ascertain the address of inventor Chen, these

actions are not sufficient to establish diligent effort was made to locate inventor Chen. Did rule 47 applicant search for inventor via an electronic database? Did applicant ask the other joint inventors or colleagues for the address of inventor Chen? Applicant should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventor. Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. Accordingly, Rule 47 applicant failed to show or provide proof the inventor can not be reached.

Although rule 47 applicant submitted a declaration with the petition, the declaration does not comply with 37 CFR 1.63. Specifically, Ramachandra Dasari and Michael S. Feld made changes to the declaration without initialing and dating the changes.

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 related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Patricia Faison-Ball
for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC116 SEP 2 4 2001 PATENT & TRADEMARK OFFICE

#4 Sector

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(LargeEntity)	Docket No. 033808/0278757

In Re Application Of: **Ito, et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/848,771	**May 3, 2001**	**NYA**	**1645**

Invention:

SOLUTION AND PROCESS FOR PRODUCING BIOCHIP

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on **June 28, 2001**
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☒ An oath or declaration in compliance with 37 CFR 1.63, *including residence information* and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), *identifying this application* by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

Assignment and PTO Form 1595
Reply Postcard

P31LARGE/REV03

09/26/2001 HBELETE1 00000056 09848771

04 FC:115 110.00 OH

OIPE JC116
SEP 2 4 2001
TRADEMARK OFFICE

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(LargeEntity)	Docket No. 033808/0278757

In Re Application Of: **Ito, et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/848,771	**May 3, 2001**	**NYA**	**1645**

Invention:

SOLUTION AND PROCESS FOR PRODUCING BIOCHIP

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☒ Utility application filing fee	**$710.00**
☐ Design application filing fee	
☒ Total number of independent claims = **3**	
☒ Total number of claims = **4**	
☒ Multiple dependent claims	**$270.00**
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	**$130.00**
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	
☐ Fee for processing an application filed with a non-English language specification	
☐ Fee for processing and retention of application	
Total completion of application fees	**$1,110.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☒ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: **August 28, 2001** (*Date*) until: **September 28, 2001** (*Date*)

Total time extension fees	**$110.00**
Total fees due	**$1,220.00**

P31LARGE/REV02

OIPE JC16 SEP 2 4 2001 PATENT & TRADEMARK OFFICE

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. 033808/0278757

In Re Application Of: **Ito, et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/848,771	**May 3, 2001**	**NYA**	**1645**

Invention:

SOLUTION AND PROCESS FOR PRODUCING BIOCHIP

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of **$1,220.00** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **03-3975**
  A duplicate copy of this sheet is enclosed.
- ☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No.
  A duplicate copy of this sheet is enclosed.

Signature

Robert M. Bedgood (Reg. N0. 43,488)

Dated: **September 18, 2001**

I certify that this document and fee is being deposited on **September 19, 2002** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Danielle J. Moten

Typed or Printed Name of Person Mailing Correspondence

cc: **SF Docketing**
Roberta Miles

P31LARGE/REV02

OIPE JC16
SEP 2 4 2001
PATENT & TRADEMARK OFFICE

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/848,771	05/03/2001	Toshiaki Ito	033808/027 8757

CONFIRMATION NO. 6625

FORMALITIES LETTER

OC000000006238765

Pillsbury Winthrop LLP
50 Fremont Street
San Francisco, CA 94105

Date Mailed: 06/28/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $270.
  - **$270** for multiple dependent claim surcharge.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1110.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

09/26/2001 MDELETE1 00000058 033975 09848771

01 FC:101 710.00 CH
02 FC:104 270.00 CH
03 FC:105 130.00 CH

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

COPY MAILED

JUN 04 2009

OFFICE OF PETITIONS

Patent No. 6,861,403	:	
Application No. 09/848,780	:	
Filed: May 3, 2001	:	ON PETITION
Issued: March 1, 2005	:	
Attorney Docket No. 15535-46032	:	

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**.

The patent issued March 1, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was March 1, 2009. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ROGER P. ZIMMERMAN
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

COPY MAILED
MAR 1 1 2005
OFFICE OF PETITIONS

In re Application of :
Mitchell C. Sanders :
Application No. 09/848,781 :
Filed: May 3, 2001 :
Attorney Docket No. 3265.1001-000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/036,761.

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. Since the $1080 extension of time fee submitted with the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Files Repository.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: JUN 18 2003

mfh
Paper No. 10

In re application of:	:	
Zuniga et al.	:	
Serial No.: 09/848,830	:	DECISION ON
Filed: May 3, 2001	:	PETITION
For: CARRIER HEAD WITH A MULTILAYER	:	
RETAINING RING FOR CHEMICAL	:	
MECHANICAL POLISHING	:	

This is a response to the PETITION TO WITHDRAW NOTICE OF ABANDONMENT OR TO REVIVE APPLICATION UNDER 37 CFR 1.137(B), filed January 16, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 29, 2002, for failure to timely file a proper response to the Office letter mailed May 9, 2002 be withdrawn. Petitioner asserts that Applicants properly and timely replied to the Office Action.

DECISION

Since petitioner asserts that the Office Action was timely replied to, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence is sufficient to establish that applicants did in fact reply to the Office Action in a timely fashion. The submitted evidence is a copy of the postcard receipt, which shows a USPTO date stamp of November 22, 2002, and a copy of the response to the Office Action submitted on that date. It is noted that the response included a certificate of mailing dated November 8, 2002

Therefore, the Notice of Abandonment is hereby withdrawn, and the case is returned to pending status. The case will be forwarded to the Technical Support Staff for entering of the Response and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

COPY MAILED

SEP 1 7 2004

OFFICE OF PETITIONS

In re Application of
Steven M. Zuniga, et al.
Application No. ~~10/848,830~~ 09/848,830
Filed: May 3, 2001
Attorney Docket No. 2834/303002

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 16, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David J. Goren appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is found to comply with the requirements of 37 CFR 1.313(c)(2). Accordingly, the petition is **GRANTED**.

The 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, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1763 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon:"Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

NOV 2 4 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven M. ZUNIGA et al. :
Application No. 09/848,830 :
Filed: May 03, 2001 :
Attorney Docket No. :
002834USACY5/22558-008002

This is a decision on the petition, filed October 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of November 20, 2007.

Petitioner asserts that a Notice of Appeal and a two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was filed on April 18, 2008. The transmittal sheet accompanying the Notice of Appeal and extension of time included a fee authorization to a deposit account. A review of the application confirms this. Accordingly, this application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A reply including a Request for Continued Examination and submission (37 CFR 1.114) and a four (4) month extension of time was also received by the USPTO on October 20, 2008 with the petition.

This application is being referred to Technology Center AU 1792 for appropriate action in the normal course of business on the reply received with petition.

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. All correspondence will continue to be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

David Bucei
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

MAR 10 2005

In re Application of
Ganapati R. Mauze, et al
Serial No. 09/848,869
Filed: 05/04/2001
For: ELECTRO-OPTICA DEVICE AND METHODS FOR HYBRIDIZATION AND DETECTION

NOTICE OF WITHDRAWAL FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the Issue Fee for Prior Art. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and issue fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Gary Jones (571) 272-0745.

Jasemine C. Chambers

Jasemine C. Chambers, Director
Technology Center 1600

AGILENT TECHNOLOGIES, INC
LEGAL DEPARTMENT
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599 MS DL429
LOVELAND, CO 80537

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

Robert C. Hall
Bozicevic, Field & Francis LLP
200 Middlefield Road
Suite 200
Menlo Park CA 94025

COPY MAILED

JUL 0 1 2002

OFFICE OF PETITIONS

In re Application of William B. Chapman, Timothy Day, John Pease, and Paul Zorbedian Application No. 09/848,914 Filed: May 4, 2001 Attorney Docket No. NUFO-028 Title: METHOD AND APPARATUS FOR TUNING A LASER	DECISION GRANTING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a)[1], filed March 6, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on may 4, 2001, without an executed oath or declaration and identifying William B. Chapman, Timothy Day, John Pease, and Paul Zorbedian as joint inventors. Accordingly, on June 28, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with 37 CFR §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

The original petition was dismissed[2] for failure to include a statement of the last known address of the non-signing inventor, as well as proof that a copy of the entire application was sent to the non-signing inventor's last known address, and that he refused to sign. With the present petition, the petitioner has rectified this shortcoming.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The three-month extension of time is acknowledged.

It is noted that petitioner has submitted a petition fee. This is unnecessary since there is no fee associated with a renewed petition. This fee will be refunded to petitioner's deposit account, as authorized in the petition.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 The original petition was filed on September 4, 2001. The decision on the original petition was mailed on October 10, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paul Zorabedian
2441 Benjamin Drive
Mountain View, CA 94043

COPY MAILED

JUL 0 1 2002

OFFICE OF PETITIONS

In re Application of :
William B. Chapman, Timothy Day, John :
Pease, and Paul Zorbedian :
Application No. 09/848,914 :
Filed: May 4, 2001 :
Attorney Docket No. NUFO-028 :
Title: METHOD AND APPARATUS :
FOR TUNING A LASER :

DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)

Dear Mr. Zorabedian:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific

paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Robert C. Hall
Bozicevic, Field & Francis LLP
200 Middlefield Road
Suite 200
Menlo Park CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

Robert C. Hall
Bozicevic Field & Francis LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94250

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
William B. Chapman, Timothy Day, John Pease, and Paul Zorbedian
Application No. 09/848,914
Filed: May 4, 2001
Attorney Docket No. NUFO-028
Title: METHOD AND APPARATUS FOR TUNING A LASER

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 September 4, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on may 4, 2001, without an executed oath or declaration and identifying William B. Chapman, Timothy Day, John Pease, and Paul Zorbedian as joint inventors. Accordingly, on June 28, 2001, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration[2]. Accompanying the petition was the non-signing inventor's employment agreement with his employer, New Focus, inc. (New Focus), a declaration executed by Joseph T. Fitzgerald

---

[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 inventor;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he cannot be found, and;
(6) a declaration which complies with 37 CFR 1.63.

[2]The petition contained a certificate of mailing dated August 28, 2001.

(the Director if Intellectual Property for New Focus), a declaration executed by Mark E. Kelly (the Intellectual Property Manager of New Focus), and a letter from the petitioner to the non-signing inventor..

The petitioner's statement, as well as the declarations of Mr. Fitzgerald and Ms. Kelly, establishes that the non-signing inventor was an employee of New Focus at the time of invention, but left prior to the filing of this application. A copy of his employment agreement has been submitted as proof of his contractual obligation to assign all inventions to his employer. Prior to filing, Mr. Fitzgerald telephoned and e-mailed the non-signing inventor to attempt to secure his signature on the declaration. On July 25, 2001, Mr. Fitzgerald spoke with the non-signing inventor via telephone, in the presence of Ms. Kelly. Mr. Fitzgerald requested that the non-signing inventor review the application and sign the declaration. Mr. Zorabedian replied that he would comply with the request only after having been presented with a $100,000 check from New Focus, a request which was balked at by Mr. Fitzgerald. Mr. Hall then sent a letter to the non-signing inventor, reiterating New Focus' belief that this request was unreasonable, and offering to provide "reasonable compensation...the rate you were compensated as a new Focus employee" to stop by the New Focus facility to review the application and sign the declaration.

Rule 47 applicant has met requirements (1), (2), and (6) above.

Regarding requirement (3) above, no statement of the last known address of the non-signing inventor has been submitted.

Regarding requirements (4) and (5), it is determined that the Rule 47 applicant has failed to show that the non-signing inventors refused to sign the declaration after having been presented with the application papers. Before a refusal can be alleged, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers to each non-signing inventor. See MPEP 409.03(d). It has not been set forth that the non-signing inventor was ever presented with the complete application papers. Nowhere is it set forth that a copy of the entire application was sent to the non-signing inventor. It appears that New Focus intended to have Mr. Zorabedian visit the business facility, review the application, and sign the declaration. The agents of New Focus telephoned, e-mailed, and wrote to Mr. Zorabedian in an attempt to secure this visitation. After the failure of their plurality of solicitations, the present petition was filed. The submitted evidence leads this Petitions Attorney to conclude that no copy of the application was ever presented to the non-signing inventor for his review. It follows that one cannot refuse to sign a declaration which one has not been presented with.

Thus, on renewed petition, applicant must submit the last known address of the non-signing inventor, and establish that the entire application package, including the specification and the claims was presented to the non-signing inventor and he refused to sign a copy of the declaration. A copy of the application papers should be sent by certified mail return-receipt requested to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

James Y. Go
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025

COPY MAILED

NOV 0 7 2003

OFFICE OF PETITIONS

In re Application of,
William B. Chapman et al.
Application No. 09/848,914
Filed: May 4, 2001
Attorney Docket No. NUFO-028
Title: METHOD AND APPARATUS FOR TUNING A LASER

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on June 10, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on March 15, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

Due to a software problem, the undersigned is not able to determine a projected publication date for this application. After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination (OIPE) for determination of the projected publication date.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBLE & YOSHIDA, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia PA 19103

COPY MAILED

SEP 20 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sunao KAKIZAKI et al. :
Application No. 09/848,916 :
Filed: May 4, 2001 :
Attorney Docket No. HITACHI-0015 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 24, 2005, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of January 24, 2005 is accepted as having been unintentionally delayed.

Since the above-identified application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer under 37 CFR 1.137(d) is not required. The terminal disclaimer fee of $130 is being credited to Deposit Account No. 50-0462

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 2638 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#7
8/21/02

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

AUG 21 2002

Paper No. 7

Fenwick & West
Two Palo Alto Square
Palo Alto, California 94306

In re Application of: Ted E. Dunning et al.	)	**DECISION ON PETITION FOR**
Application No. 09/848,982	)	**ACCELERATED EXAMINATION**
Filed: May 7, 2001	)	**UNDER M.P.E.P. §708.02(VIII)**
For: TEXT EQUIVALENCING ENGINE	)	

This is a decision on the petition, filed August 14, 2002, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

Chief Patent Counsel
Engelhard Corporation
101 Wood Avenue
PO Box 770
Iselin, NJ 08830

COPY MAILED

FEB 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Hu et al. :
Application No. 09/848,984 :
Filed: May 4, 2001 :
Attorney Docket No. 3706C (CON) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 26, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 27, 2001.

This application is being forwarded to Technology Center AU 1754.

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

#60305

OIPE JC165 SEP 19 2001 PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Name (Print/Type)	Cindy Hoang	Signature	Hoang	Date	09-12-2001

OIPE JC165 SEP 19 2001 PATENT & TRADEMARK OFFICE

TRANSMITTAL

☑ Small Entity ☐ Large Entity

Application Number	09/848,986
Confirmation Number	To Be Assigned
Filing Date	May 4, 2001
First Named Inventor	RAZ
Examiner	To Be Assigned
Group Art	To Be Assigned
Attorney Docket No.	UCAL168

ENCLOSED:	Claims	No. of claims as filed or after amendment	Most claims previously paid for	# Extra Claims	Rate	Totals
☐ Amendment Under Rule	Total					$ -
☐ 37 CFR §	Independent					$ -
☐ Pages	Multiple					
	Total Extra Claim Fees					$ -

☑ Applicants Petition for an Extension of time from 08-12-2001 to 09-12-2001 — Fee $55.00

A _ month extension was previously filed and paid for thereby reducing the basic fee

☑ Response to File Missing Parts

- ☐ Filing Fee — Fee
- ☑ Executed Declaration — Pages 2 — Surcharge Fee $65.00
- ☐ Other — Fee
- Fee
- Fee
- Fee

Subtotal $65.00

☐ Information Disclosure Statement

- ☐ PTO Form 1449 — Pages
- ☐ Copies of Cited References
- ☐ Other — Fee

Adjustment date: 11/06/2001 SDUONG
09/20/2001 BNGUYEN1 00000087 500815 09848986
02 FC:205 65.00 CR

11/06/2001 SDUONG 00000014 500815 09848986
01 FC:105 130.00 CH

Subtotal $ -

☐ Response to Notice to Comply (with copy of Notice to Comply)

- ☐ Sequence Listing Certification
- ☐ Paper Copy of Sequence Listing — Pages
- ☐ Diskette in computer-readable format
- ☐ Other — Fee

09/20/2001 BNGUYEN1 00000087 500815 09848986
02 FC:205 65.00 CH

09/20/2001 BNGUYEN1 00000087 500815 09848986
01 FC:215 55.00 CH

☐ Terminal Disclaimer			Fee
☐ Appeal to Board of Appeals and Appeal Communication to Group			
☐ Notice of Appeal	Pages		Fee
☐ Appeal Brief in Triplicate	Pages		Fee
☐ Reply Brief	Pages		Fee $ -
			Subtotal $ -
☐ Other Enclosures and/or Fees			Fee
☐ Change of Correspondence Address			
☑ Return Receipt Postcard		TOTAL FEES	$ 120.00

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore. A duplicate copy of this transmittal is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED

Name (Print/Type)	Paula A. Borden			Registration No.	42,344
Signature				Date	09-12-2001
Firm Name	Bozicevic, Field & Francis LLP		Address	200 Middlefield Road, Suite 200	
City	Menlo Park	State	California	zip	94025
Telephone - Direct Dial	650-327-3400		Facsimile	650-327-3231	

Application No. 09/848,986 Attorney Docket No. UCAL168 Page 2 of 2

PEFR 3600 036 #9

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Name (Print/Type)	Cindy Hoang	Signature	Cindy Hoang	Date	11-13-2001

OIPE JC46 JAN 0 4 2002 PATENT & TRADEMARK OFFICE

TRANSMITTAL

☑ Small Entity ☐ Large Entity

Application Number	09/848,986
Confirmation Number	8751
Filing Date	May 4, 2001
First Named Inventor	RAZ
Examiner	To Be Assigned
Group Art	1645
Attorney Docket No.	UCAL168

ENCLOSED:	Claims	No. of claims as filed or after amendment	Most claims previously paid for	# Extra Claims	Rate	Totals
☐ Amendment Under Rule	Total					$ -
☐ 37 CFR § _____	Independent					$ -
☐ Pages _____	Multiple					
	Total Extra Claim Fees					$ -

☐ Applicants Petition for an Extension of time from _____ to _____ *A 2 month extension was previously filed and paid for thereby reducing the basic fee* Fee

☑ Response to Notice of Incomplete Reply (with copy of Notice)

- ☐ Filing Fee — Fee _____
- ☐ Executed Declaration — Pages _____ — Surcharge Fee _____
- ☑ Other — 1) Copy of Response to Notice to File Missing Parts as filed on October 11, 2001 — Fee _____
  - 2) Copy of Postcard indicating that the Response mailed on October 11, 2001 — Fee _____
  - was received by the U.S.P.T.O. on October 15, 2001 — Fee _____
  - Fee _____

Subtotal $ -

☐ Information Disclosure Statement

- ☐ PTO Form 1449 — Pages _____
- ☐ _____ Copies of Cited References
- ☐ Other _____

Fee
Subtotal $

RECEIVED JAN 1 6 2002 TECH CENTER 1600/2900

☐ Response to Notice to Comply (with copy of Notice to Comply)

- ☐ Sequence Listing Certification
- ☐ Paper Copy of Sequence Listing — Pages _____
- ☐ Diskette in computer-readable format
- ☐ Other _____ — Fee _____

☐ Terminal Disclaimer			Fee
☐ Appeal to Board of Appeals and Appeal Communication to Group			
☐ Notice of Appeal	Pages	_____	Fee _____
☐ Appeal Brief in Triplicate	Pages	_____	Fee _____
☐ Reply Brief	Pages	_____	Fee $ -
			Subtotal $ -
☐ Other Enclosures and/or Fees	_____		Fee _____
☐ Change of Correspondence Address			
☑ Return Receipt Postcard			TOTAL FEES $ -

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore. A duplicate copy of this transmittal is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED

Name (Print/Type)	Paula A. Borden			Registration No.	42,344
Signature				Date	11-13-2001
Firm Name	Bozicevic, Field & Francis LLP		Address	200 Middlefield Road, Suite 200	
City	Menlo Park	State	California	zip	94025
Telephone - Direct Dial	650-327-3400		Facsimile	650-327-3231	

Application No. 09/848,986 Attorney Docket No. UCAL168 Page 2 of 2

OIPE JC46
JAN 0 4 2002
PATENT & TRADEMARK OFFICE

RECEIVED
JAN 1 6 2001
TECH CENTER 1600/2900

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.			
Typed or Printed Name	Cindy Hoang		
Signature	Cindy Hoang	**Date**	November 13, 2001

Communication in Response to Notice of Incomplete Reply		
	Attorney Docket	UCAL168
	First Named Inventor	RAZ
	Application Number	09/848,986
	Filing Date	May 4, 2001
Address to: Assistant Commissioner for Patents Washington, D.C. 20231	Group Art Unit	8751
	Examiner Name	To Be Assigned
	Title: "AGENTS THAT MODULATE DNA-PK ACTIVITY AND METHODS OF USE THEREOF"	

Sir:

In response to the Notice of Incomplete Reply dated October 10, 2001, applicants respectfully submit the following:

1) Response to Notice to File Missing Parts as filed on October 11, 2001 and
2) Copy of Postcard indicating that the Response mailed on October 11, 2001 was received by the U.S. Patent and Trademark Office on October 15, 2001.

Applicants believe that no extension fees are due, as extension fees were paid with the timely filed response on October 11, 2001.

However, the Commissioner is hereby authorized to charge any fees which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number UCAL168.

BOZICEVIC, FIELD & FRANCIS LLP

Date: Nov. 13, 2001

By: _____
Paula A. Borden
Registration No. 42,344

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Facsimile: (650) 327-3231
F:\DOCUMENT\UCAL\168us1\Commun to PTO.rtf

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

RECEIVED
TECH CENTER 1600/2900
2001

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/848,986	05/04/2001	Eyal Raz	UCAL 168

CONFIRMATION NO. 8751

FORMALITIES LETTER

OC000000006882094

OIPE JC49
JAN 0 4 2002
PATENT & TRADEMARK OFFICE

24353
BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

Date Mailed: 10/10/2001

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 09/12/2001 to the Notice to File Missing Parts (Notice) mailed 06/12/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The 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);

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC46
JAN 0 4 2002
PATENT & TRADEMARK OFFICE

RECEIVED
JAN 1 6 2001
TECH CENTER 1600/2900

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
09/848,986	05/04/2001	Raz	6510168US1

CONFIRMATION NO. 8751

FORMALITIES LETTER

OC000000006172817

24353
BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

Date Mailed: 06/12/2001

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 $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

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);

A copy of this notice MUST be returned with the reply.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Name (Print/Type)	Cindy Hoang	Signature		Date	10-11-2001

OIPE JC83 OCT 1 5 2001 PATENT & TRADEMARK OFFICE

TRANSMITTAL

☑ Small Entity ☐ Large Entity

Application Number	09/848,986
Confirmation Number	8751
Filing Date	May 4,2001
First Named Inventor	RAZ
Examiner	To Be Assigned
Group Art	1645
Attorney Docket No.	UCAL168

ENCLOSED:	Claims	No. of claims as filed or after amendment	Most claims previously paid for	# Extra Claims	Rate	Totals
☐ Amendment Under Rule	Total					$ -
☐ 37 CFR §	Independent					$ -
☐ Pages	Multiple					
	Total Extra Claim Fees					$ -

☑ Applicants Petition for an Extension of time from 08-12-2001 to 10-12-2001 — Fee $ 145.00

A 1 month extension was previously filed and paid for thereby reducing the basic fee

☑ Response to File Missing Parts (with copy of formalities letter)

- ☐ Filing Fee — Fee
- ☐ Executed Declaration — Pages — Surcharge Fee
- ☑ Other Formal Drawings (14 sheets) — Fee
- Fee
- Fee
- Fee

Subtotal $ -

☐ Information Disclosure Statement

- ☐ PTO Form 1449 — Pages
- ☐ Copies of Cited References
- ☐ Other

Fee

Subtotal $ -

☐ Response to Notice to Comply (with copy of Notice to Comply)

- ☐ Sequence Listing Certification
- ☐ Paper Copy of Sequence Listing — Pages
- ☐ Diskette in computer-readable format
- ☐ Other — Fee

☐ Terminal Disclaimer			Fee
☐ Appeal to Board of Appeals and Appeal Communication to Group			
☐ Notice of Appeal	Pages	_____	Fee _____
☐ Appeal Brief in Triplicate	Pages	_____	Fee _____
☐ Reply Brief	Pages	_____	Fee $ -
			Subtotal $ -

☑ Other Enclosures and/or Fees 1) Request to Correct Filing Receipt (1 pg.) and 2) Marked-up Copy of Filing Receipt

☐ Change of Correspondence Address

☑ Return Receipt Postcard **TOTAL FEES** $ 145.00

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore. A duplicate copy of this transmittal is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED

Name (Print/Type)	Paula A. Borden			Registration No.	42,344
Signature				Date	10-11-2001
Firm Name	Bozicevic, Field & Francis LLP		Address	200 Middlefield Road, Suite 200	
City	Menlo Park	State	California	zip	94025
Telephone - Direct Dial	650-327-3400		Facsimile	650-327-3231	

Application No. 09/848,986 Attorney Docket No. UCAL168 Page 2 of 2

OIPE JC83
OCT 1 5 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
09/848,986	05/04/2001	Raz	6510168US1

CONFIRMATION NO. 8751

FORMALITIES LETTER

OC000000006172817

24353
BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

Date Mailed: 06/12/2001

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 $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

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);

A copy of this notice MUST be returned with the reply.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 4

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306

MAIL

MAR 2 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Mary A. Holstege et al.)
Application No. 09/848,987)
Filed: May 3, 2001)
For: SYSTEM AND METHOD FOR MONITORING MULTIPLE ONLINE RESOURCES IN DIFFERENT FORMATS)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 26, 2002

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Randy Gard, Esquire
Carr & Ferrell LLP
2225 East Bayshore Road, #200
Palo Alto, California 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

TOWNSEND AND TOWNSEND AND
CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

APR 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Mary A. Holstege	:	
Application No. 09/848,987	:	ON APPLICATION FOR
Filed: May 3, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
021756-016000US6	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed on January 2, 2009. Applicant requests that the determination of patent term adjustment be increased by the number of days in excess of three (3) after the date the application was filed. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Applicant states that the application is not subject to a terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

TOWNSEND AND TOWNSEND AND
CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

NOV 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,543,024	:	DECISION
Mary A. Holstege	:	DISMISSING REQUEST FOR
Issue Date: June 2, 2009	:	RECONSIDERATION OF PATENT
Application No. 09/848,987	:	TERM ADJUSTMENT
Filed: May 3, 2001	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
021756-016000US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed on June 4, 2009. Patentees request that the Patent Term Adjustment for the above-identified patent be increased by 306 days from 688 days to 994 days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 688 days.

BACKGROUND

On June 2, 2009, the above-identified application matured into U.S. Patent No. 7,543,024, with a revised Patent Term Adjustment of 688 days. On June 4, 2009, the subject request for reconsideration was timely filed within two months of the patent issue date.

The Office determined that the 473 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 841 (806 + 35) days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2) accorded prior to the filing of the request for continued examination. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the additional Office delay under 37 CFR 1.702(a)(2) and (a)(4) of 42 (11 + 31) days and the applicant delay of 195 days, the patent issued with a revised patent term adjustment of 688 (883 (841 + 42) - 195) days.

On June 4, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 994 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same calendar day or days." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1189 (852 + 473 - 136 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 195 days, patentee asserts entitlement to 994 (1189 - 195) days of patent term adjustment.

OPINION

Preliminarily, it is noted that patentee has omitted the period of 31 days of Office delay pursuant to 37 CFR 1.704(a)(4) accorded for issuance of the patent on June 2, 2009, four months and 31 days after payment of the issue fee on January 2, 2009. Patentee's argument will be articulated to include this 31 day period of Office delay.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> 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 *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment

under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f)), is the relevant period 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).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period 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) is the period during which the application was pending before the Office beginning on the application filing date, May 3, 2001, and ending on the date of filing of a request for continued examination (RCE), August 19, 2005 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2), 841 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 472 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application for the period beginning on May 4, 2004, and ending on August 18, 2005.

The 472 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 841 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(2). Entry of both the 841 days and the 472 days is neither permitted nor warranted. Considering the Office delay of 42 days under 37 CFR 1.702(a)(2) and (a)(4) which

occurred subsequent to the filing of the RCE, and the applicant delay of 195 days, the patent term adjustment is 688 days.

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

As the request of January 2, 2009, was held in abeyance by the decision of April 22, 2009, no additional fee is required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG. C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Christina Bauer-Plank, et. al.	:	
Application No. 09/848,988	:	DECISION ON PETITION
Filed: May 4, 2001	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. F7534(V)	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign European Application No. 00201631.9, filed May 4, 2000.

The petition is **GRANTED**.

This 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. 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).

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 Director 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.

This application was filed on May 4, 2001, which is after November 29, 2000 and within 12 months of May 4, 2000 (the filing date of the foreign application to which benefit is now being claimed). On December 2, 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 $1,330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

37 CFR § 1.55(c) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 1761 for examination in due course and 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 Andrea Smith at (571) 272-3226.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/848,988	05/04/2001	1761	840	F7534(V)	14	2

CONFIRMATION NO. 8753

CORRECTED FILING RECEIPT

OC000000022952510

201
UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

Date Mailed: 03/16/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Christina Bauer-Plank, Vlaardingen, NETHERLANDS;
Marcelle Van Den Kommer, Vlaardingen, NETHERLANDS;
Marcel Caroline Segers, Rotterdam, NETHERLANDS;

Assignment For Published Patent Application

Lipton, Division of Conopco, Inc.

Power of Attorney:

Gerard McGowan Jr--29412

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00201631.9 05/04/2000

If Required, Foreign Filing License Granted: 06/28/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/848,988

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

POURABLE FRYING COMPOSITION

Preliminary Class

426

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).

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

BAKER & BOTTS, LLP
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980

MAILED
MAR 2 0 2002
Technology Center 2100

In re Application of
KLEVANS et al.
Serial No. 09/849,010
Filed: May 4, 2001
For: Method And System For Hardware Simulation

DECISION ON PETITION

This is a decision on petition filed December 6, 2001 under 37 CFR 1.48(a). Petitioner requests the inventorship be corrected. Petitioner alleges unintential ommission of two inventor.

The petition is GRANTED.

37 CFR 1.48(a) Correction of inventorship requires -

> (a) If the correct inventor or inventors are not named in a nonprovisional application through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by:
>
> (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred;
>
> (2) an oath or declaration by each actual inventor or inventors as required by § 1.63;
>
> (3) the fee set forth in § 1.17(h); and
>
> (4) the written consent of any assignee. When the application is involved in an interference, the petition shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.

Petitioner submits (1) a petition,(2) an Oath/Declaration by each actual inventor as required by Rule 63, (3) the requisite fee, and (4) the written consent of the assignee.

The petition is GRANTED.

The application will be forwarded to application branch to correct the inventorship. The inventorship will then be -

Richard L. Klevans, Rajaraman Krishnan, and Suresh Ramakrishnan

Kevin Teska
Supervisory Patent Examiner
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 11 2007

OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Application of
Patrick Man Ning Wong et al.
Application No. 09/849,013
Filed: May 4, 2001
Attorney Docket No. A33902-072119.0110

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 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 cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.
All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dan Hart, Esq.**
Knobbe Martens Olson & Bear LLP
550 West C Street
San Diego, CA 92101-3505

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

MAY 0 6 2003

Technology Center 2600

In re Application of :
Cox et al. :
Application No. 09/849,023 :
Filed: May 4, 2001 :
For: POWER POOLING IN NETWORK :
DOWNSTREAM DATA TRANSMISSION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 5, 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 attorneys associated with Customer No. 20,350 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 Zegeer
Law Office of Jim Zegeer
801 North Pitt Street, #108
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JUL 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

William E. Noonan
Post Office Box 07338
Fort Myers, FL 33919

In re Application of
Brian D. Rump
Application No. 09/849,032
Filed: May 4, 2001
For: BRACKET FOR A SAWHORSE AND OTHER MULTIPLE PIECE STANDS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on May 30, 2003.

The petition is **GRANTED**.

A review of the file record indicates than an Office action was mailed to applicant on October 2, 2002. Since a response to the October 2, 2002 Office action has not been received, the application is held abandoned, although a Notice of abandonment has yet been mailed.

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 January 2, 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 Office action was not received by the practitioner.. Practitioner also attests 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 as being due was also submitted. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action of October 2, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 7/11/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

George Liu
Lawrence Y D Ho & Assocs.
2101 Crystal Plaza Arc
PMB 400
Arlington, VA 22202

COPY MAILED
MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of Smith et al. :
Application No. 09/849,049 : Decision on Petition
Filing Date: May 5, 2001 :
Attorney Docket No. 1293.P003US/GDL :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within one month to the Notice of Non-Compliant Amendment mailed on March 15, 2004. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on April 16, 2004. A Notice of Abandonment was mailed on September 29, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3724 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT C. CURFISS
JACKSON WALKER L.L.P.
SUITE 2100
112 E. PECAN,
SAN ANTONIO TX 78205

COPY MAILED

AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
KELLEY, J. Roger	:	
Application No. 09/849,078	:	DECISION ON PETITION
Filed: May 04, 2001	:	TO WITHDRAW
Attorney Docket No. **046362.007001.0003**	:	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 July 02, 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 Mark A. Tidewell 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 J. Roger Kelly at the address indicated below.

There is an outstanding Office action mailed April 05, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **J. ROGER KELLEY**
1931 HUMBLE PLACE
SUITE 202
HUMBLE, TEXAS 77338

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
09/849,078	05/04/2001	J. Roger Kelley	046362.007001.0003

CONFIRMATION NO. 8140

OC000000025499796

ROBERT C. CURFISS
19826 SUNDANCE DRIVE
HUMBLE, TX 77346-1402

Date Mailed: 08/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/02/2007.

- 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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No. 15

MAILED

AUG 1 2003

OFFICE OF DIRECTOR GROUP

John P. O'Banion
O'BANION & RITCHEY LLP
Suite 1550
400 Capitol Mall
Sacramento CA 95814

In re Application of:	:	
SOLGAARD, *et al.*	:	DECISION ON PETITION
Application No.09/849,096	:	TO WITHDRAW HOLDING
Filed: May 04, 2001	:	OF ABANDONMENT
Attorney Docket No.: UC97-156-8	:	

This is a decision on the petition filed on November 06, 2002, to withdraw the holding of abandonment of the above-identified application. A petition fee is not required.

The petition is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on March 11, 2002. A Notice of Abandonment was mailed on October 25, 2002.

Petitioner asserts that a response to the Office action of March 11, 2002, was mailed by Express Mail in the above-identified application on May 13, 2002. The petitioner has provided a copy of the Express Mail Label and a copy of the return receipt postcard that acknowledges receipt by the United States Patent and Trademark Office (PTO) of the above identified response on May 13, 2002.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed but has since been located and matched therewith. The response of record bears a PTO stamped receipt date of May 13, 2002.

For the above-stated reasons, 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 entry of the response received on May 13, 2002. 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/26/06

TO SPE OF : ART UNIT 2126

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/849105** Patent No.: **6948174**

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. 183

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: _____

WILLIAM THOMSON
SUPV PATENT EXAMINER

SPE

2194 / 2126

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

Allan A. Fanucci
WINSTON & STRAWN
200 Park Avenue
New York, NY 10166

COPY MAILED
JAN 3 0 2004
OFFICE OF PETITIONS

In re Application of
Petiard, et al.
Application No.: 09/849,139
Filed: May 4, 2001
Attorney Docket No: 88265-4022

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed December 23, 2003.

The petition under 37 CFR 1.137(b) is **granted**.

On June 7, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration, $130.00 surcharge, substitute drawings, an abstract, a statement relative to the sequence listing to be filed. A response was filed on June 22, 2001, but the response was incomplete. No further responses were received within the allowable period and the application became abandoned on August 8, 2001.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The amendment, abstract, and "Transmittal of Sequence Listing" filed December 23, 2003, are noted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jacob J. Liu et al	:
Application No. 09/849,147	:
Filed: May 4, 2001	:
Attorney Docket No. 56647USA8A.002	:

This is a decision on the petition, filed August 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 2, 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 Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
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. 17

KEVIN L RUSSELL
601 SW SECOND AVE SUITE 1600
PORTLAND OR 97204-3157

COPY MAILED

MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of
McCann, et al.
Application No. 09/849,152
Filed: May 4, 2001
Attorney Docket No. KLR:1016.066

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2004, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 18, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on September 19, 2003. A Notice of Abandonment was mailed on January 14, 2004.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

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 $950 extension of time fee submitted with the petition on March 24,

2004 was subsequent to the maximum period obtainable for reply (December 18, 2003), this fee has been refunded to petitioner's Deposit Account 03-1550.[1]

The application file is being forwarded to Group Art Unit 2872 for consideration of the amendment filed March 24, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] It is noted that petitioner paid a three month extension fee of $950 (non-small entity fee), while petitioner paid the small entity fees for the application filing fee, in addition for the petition to revive fee.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

MAIL

APR 21 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Kramer
Application No. 09/849,160
Filed: May 04, 2001
For: A SYSTEM AND METHOD OF PARTITIONING SOFTWARE COMPONENTS OF A MONOLITHIC COMPONENT-BASED APPLICATION PROGRAM TO SEPARATE GRAPHICAL USER INTERFACE ELEMENTS FOR LOCAL EXECUTION AT A CLIENT SYSTEM IN CONJUNCTION WITH REMOTE EXECUTION OF THE APPLICATION PROGRAM AT A SERVER SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 04, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 04, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the

withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON, SUITE 800
TULSA, OK 74103-3318

COPY MAILED

AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of
Michael E. Gaddis, David Barmann,
Peter N. Hicks and Michael A. Brown
Application No. 09/849,176
Filed: May 4, 2001
Title: METHOD AND SYSTEM FOR SENDING
INFORMATION ON AN EXTRANET

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 20, 2001. The petition was recently forwarded to this office for review.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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 petition fee will be charged to deposit account 19-2555, as authorized in the fee transmittal submitted with the instant petition on December 20, 2001.

The file is being forwarded Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED 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

MICHAEL GADDIS
4562 HUFFMEIER ROAD
DEFIANCE, MISSOURI 63341

COPY MAILED

AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of
Michael E. Gaddis, David Barmann,
Peter N. Hicks and Michael A. Brown
Application No. 09/849,176
Filed: May 4, 2001
Title: METHOD AND SYSTEM FOR SENDING INFORMATION ON AN EXTRANET

Dear MICHAEL GADDIS:

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 at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON, SUITE 800
TULSA, OK 74103-3318

09/849176

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-30-05

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction on Patent No.: 6965937

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ South /T 9A22
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.

Please check spec.

E Young

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

SPE

2154
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
DIW May-07

MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027

COPY MAILED

MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Tock et al.	:	
Application No. 09/849,181	:	ON PETITION
Filed: 5 May, 2001	:	
For: CELLULOSE FIBERS AND THEIR	:	
USE IN REDUCING VOC EMISSIONS	:	

This is a decision in reference to the petition to withdraw the holding of abandonment filed on 18 October, 2004,[1] which is treated as a petition under 37 CFR 1.181.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

This application became abandoned on 20 August, 2003, for failure to submit a timely and proper response to the Office action mailed in accordance with *Ex parte Quayle*[2] mailed on 19 May, 2003, which set a two (2) month shortened statutory period for reply. On 26 August, 2003 (certificate of mailing 19 August, 2003), an amendment was filed, accompanied by a one (1) month extension of time in accordance with 37 CFR 1.136(a) were obtained. The amendment is considered non-compliant for failure to meet the requirements of 37 CFR 1.121, however, and a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on 10 September, 2003, notifying applicant that a corrected amendment was necessary. Notice of Abandonment was mailed on 13 September, 2004.

---

[1] An additional copy of the petition was supplied on 24 June, 2006.

[2] 1935 C.D. 11, 453 O.G. 213

Petitioners assert that a timely response to the Office action mailed on 19 May, 2003, was timely filed on 19 August, 2003.

A review of the record reveals that petitioners' response, filed on 26 August, 2003 (certificate of mailing 19 August, 2003), was received. While the response was timely filed, the response did not comply with 37 CFR 1.121, and a Notice informing petitioner of such was mailed on 10 September, 2003.

As the showing of record is that no response to the Notice mailed on 10 September, 2003, was ever received, the application was properly held abandoned.

A copy of the Notice mailed on 10 September, 2003, is enclosed with this decision for petitioners' reference.

As the showing of record is insufficient to withdraw the holding of abandonment, the petition is **dismissed**.

Petitioner may wish to consider filing a petition to revive the application, accompanied by the proper fee. A copy of the form for filing a petition to revive under 37 CFR 1.137(b), and a copy of the fee schedule, is enclosed.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[3]

Receipt of the request to change the correspondence address filed on 24 July, 2006, is acknowledged. All mail will be sent to the new address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

[3] 37 CFR 1.181(f).

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice mailed on 10 September, 2003
PTO/SB/64

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.
09/849,181	05/05/2001	Richard W. Tock	I01102/03102	9264

7590 09/10/2003

Mark R. Wisner
Alan H. Gordon & Associates
2355 Phoenix Tower
3200 Southwest Freeway
Houston, TX 77027-7523

EXAMINER
VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
1732	14

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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

AS-14

Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 8/26/03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. **Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.**

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and **this ONE MONTH time limit is not extendable.**

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION,** and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION,** this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

Leland Watkins
Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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 Jan-08

MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027

COPY MAILED

JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Tock et al.	:	DECISION ON PETITION
Application Number: 09/849181	:	
Filing Date: 05/05/2001	:	
Attorney Docket Number:	:	
I01102/03102	:	

This is a decision on the petition filed on November 13, 2007, under 37 CFR 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

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on July 20, 2003, for failure to submit a timely and proper response to the Office action mailed in accordance with Ex parte Quayle[2] mailed on May 19, 2003, which set a two (2) month shortened statutory period for reply. On August 26, 2003 (certificate of mailing date August 19, 2003), an amendment was filed, accompanied by a one (1) month extension of time in accordance with 37 CFR 1.136(a). The amendment, however, is considered non-compliant for failure to meet the requirements of 37 CFR 1.121, and a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on September 10, 2003, notifying applicants that a corrected amendment was required. Notice of Abandonment was mailed on September 13, 2004.

On October 18, 2004, a petition to withdraw the holding of abandonment was filed. On May 21, 2007, the petition was dismissed.

The present petition to revive the application was filed on November 13, 2007.

The petition must be dismissed because a proper reply has not been filed: Applicant still has not provided the response that was required by the examiner. Applicant must provide a copy of the claims showing the amendments incorporated into the claims (37 CFR 1.121).

Additionally, the statement of unintentional delay in the petition does not track the language of 37 CFR 1.137(b)(3), which 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. As such, it is recommended that petitioner use the enclosed form when filing a renewed petition.

No additional petition fee is due.

---

[2] 1935 C.D. 11, 453 OG. 213.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: 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 Apr-08

MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027

COPY MAILED

APR 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Tock et al.	:	
Application Number: 09/849181	:	DECISION ON PETITION
Filing Date: 05/05/2001	:	
Attorney Docket Number:	:	
I01102/03102	:	

This is a decision on the renewed petition filed on January 28, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 20, 2003, for failure to submit a timely and proper response to the Office action

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

mailed in accordance with Ex parte Quayle[2] mailed on May 19, 2003, which set a two (2) month shortened statutory period for reply. On August 26, 2003 (certificate of mailing date August 19, 2003), an amendment was filed, accompanied by a one (1) month extension of time in accordance with 37 CFR 1.136(a). The amendment, however, is considered non-compliant for failure to meet the requirements of 37 CFR 1.121, and a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on September 10, 2003, notifying applicants that a corrected amendment was required. Notice of Abandonment was mailed on September 13, 2004.

On October 18, 2004, a petition to withdraw the holding of abandonment was filed. On May 21, 2007, the petition was dismissed. On November 13, 2007, a petition under 37 CFR 1.137(b) was filed. On January 10, 2008, the petition was dismissed.

On January 28, 2008, the present renewed petition was filed.

Petitioner's reply filed on January 28, 2008, has been deemed to place this case in condition for allowance.

The application file is being referred to Technology Center Art Unit 1732 for further processing.

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

---

[2] 1935 C.D. 11, 453 OG. 213.

UNITED STATES 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 08-04

Paper No. 11

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK CA 94560

COPY MAILED
JUN 1 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Brady et al.	:	
Application No. 09/849,383	:	ON PETITION
Filed: 5 May, 2001	:	
Atty Docket No. LBL1028U	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 1 June, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 14 August, 2003, for failure to file a timely reply to the final Office action mailed on 13

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

May, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 November, 2003.

Petitioner has now filed a Request for Continued Examination (RCE) and an amendment as the required submission under 37 CFR 1.114.

The application is being forwarded to Technology Center 3600 for consideration of the RCE and submission.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COLLARD & ROE PC
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

COPY MAILED

SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Michaelis, et al.	:	
Application No. 09/849,386	:	ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. Michaelis, et al.-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (2), the petition fee. Petitioner submitted $650 for the petition fee. Effective December 8, 2004, the petition fee was increased to $750 for a small entity.

Accordingly, on renewed petition, petitioner must submit $100 for the balance of the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COLLARD & ROE PC
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

COPY MAILED
NOV 3 0 2006
OFFICE OF PETITIONS

In re Application of Michaelis, et al. Application No. 09/849,386 Filed: May 3, 2001 Attorney Docket No. Michaelis, et al.-1	: : : : :	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Deposit Account No. 03-2468 has been charged $100 for the balance of the petition fee, as authorized.

The matter is being forwarded to Group Art Unit 3743 for consideration of the amendment filed February 13, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

SEP 1 4 2005

Technology Center 2100

McGinn & Gibb, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

In re Application of: Blaum, et al.	)	
Application No. 09/849,397	)	*SUA SPONTE*
Attorney Docket No. ARC920000071US1	)	WITHDRAWAL OF HOLDING OF
Filed: May 7, 2001	)	ABANDONMENT
For: METHOD AND SYSTEM FOR	)	
SYNCHRONIZATION IN THE PRESENCE	)	
OF THERMAL ASPERITY	)	

The petition and request for withdrawal of the holding of abandonment, filed May 2, 2005 is acknowledged.

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on January 18, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Non-Final Office communication (mailed on April 23, 2004). A timely filed amendment was filed on July 23, 2004 bearing a USPTO central facsimile center receipt date of July 23, 2004. In addition, the petition includes a USPTO auto-reply facsimile transmission receipt that properly identifies the contents of the submission and bearing a July 23, 2004 date. Accordingly, the amendment/response was timely filed.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status and to process the amendment filed July 23, 2004 (copy filed May 2, 2005). The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 7

MAIL

SEP 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Mord Michael Lewis
NAIPO (NORTH AMERICA
INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:)
Shye-Lin Wu)
Application No. 09/849,403) **DECISION ON REQUEST FOR**
Filed: February 22, 2001) **WITHDRAWAL AS ATTORNEY**
For: FRAME NUMBER)
IDENTIFICATION AND CIPHERING
ACTIVATION TIME
SYNCHRONIZATION FOR A
WIRELESS COMMUNICATIONS
PROTOCOL

This is a decision on the Request To Withdraw from Representation filed August 18, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed August 18, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Winston Hsu

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

James W. Huffman
1832 N. Cascade Avenue
Colorado Springs, CO 80907-7449

COPY MAILED

MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Phil Delurgio, et al.	:	
Application No. 09/849,448	:	DECISION GRANTING PETITION
Filed: May 4, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. DT-0104	:	

This is a decision on the petition filed January 28, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on April 25, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with the 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of June 12, 2003 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 3622 for examination in due course.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

OIPE JC46
APR 2 9 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

EXA

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

SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
Richard Soltys et al
Application No. 09/849,456
Filed: May 4, 2001
Attorney Docket No. 120109.402

DECISION GRANTING PETITION

RECEIVED
JUL 08 2002
TC 3700 MAIL ROOM

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed August 13, 2001, requesting that the above identified application be accorded a filing date of May 4, 2001, rather than the presently accorded filing date of May 3, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioners request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 4, 2001, pursuant to the requirements of 37 CFR 1.10. In support, petitioners provide a copy of the receipt for Express Mail label No. EL755726065US. The same Express Mail receipt number was referred to in the copy of the original transmittal letter found in the present application. It is noted that while the "date-in" on the copy of the Express Mail receipt is not legible, it includes a "Columbia Center Station WA" receipt stamp dated "May 4, 2001".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 4, 2001.

The petition is granted.

Receipt is acknowledged of the statutory basic filing fee and declaration filed September 4, 2001, in response to the Notice mailed July 3, 2001.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 4, 2001.

RECEIVED

OCT 1 5 2001

SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC

Telephone inquiries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JAN 31 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Pillsbury Winthrop LLP
P.O. Box 10500
McLean, VA 22102

Paper No. 7

In re application of
Denis Khoo et al.
Application No. 09/849,495
Filed: May 4, 2001
For: METHOD AND SYSTEM FOR PROVIDING CONTENT WITH AN OPTION

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on November 5, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM: 1/29/03

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☐ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

☒ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

Mr. Jakobsen elected w/o traverse to have claims 1-6, 14-19 (Group I) examined 1/28/03 KHL

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP TO:

STEVEN MEYERS **CPK5-8T06**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

FARJAMI & FARJAMI LLP
16148 SAND CANYON
IRVINE, CA 92618

MAIL

DEC 3 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Elias Bjarnason, et al. :
Application No. 09/849,501 : DECISION ON PETITION
Filed: May 4, 2001 :
For: METHOD AND APPARATUS FOR TRAINING LINEAR EQUALIZERS IN A PC MODEM :

This is a decision on the petition under 37 C.F.R. § 1.181(a) filed September 11, 2003 (originally filed by facsimile on June 18, 2003), to withdraw the holding of abandonment..

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed September 4, 2002. A Notice of Abandonment was mailed on May 23, 2003.

Petitioner alleges to have timely submitted a response to the September 4, 2002 Office Action. In support, the Petitioner has included with the petition a copy of the return postcard date-stamped by the PTO on December 18, 2002, itemizing a Response to the Office action, and a request for Extension of Time and a check in the amount of $110. A review of the Revenue, Accounting and Management (RAM) records shows that a check in the amount of $110.00 was received on December 18, 2002 and processed on December 20, 2002. The petition also includes a copy of all the papers filed December 18, 2002.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[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." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file. The Office sincerely regrets the inconvenience to the applicant.

The petition is **GRANTED**.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Since the Office has already received and processed the fee for the one-month extension of time, the application will be forwarded to Technology Center's technical support staff for entry of the amendment filed December 18, 2002. From there, the file will be forwarded to the examiner for examination in due course.

Jin Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

RALPH E. JOCKE
Walker & Jocke LPA
231 SOUTH BROADWAY
MEDINA OH 44256

In re Application of	:
McGrady, et al.	: DECISION ON PETITION
Application No. 09/849,625	:
Filed: May 4, 2001	:
Docket No.: D-1137	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 7, 2007.

This application was held abandoned for failure to submit a reply to the Office action communication mailed January 19, 2007. Notice of Abandonment was mailed October 31, 2007.

Petitioners assert that a response to the Office communication was timely submitted on February 7, 2007.

The original response submitted February 7, 2007 has been located in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 3600 for consideration of the petition under 37 CFR 1.144.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,625	05/04/2001	R. Michael McGrady	D-1137	9504

28995 7590 04/29/2008
RALPH E. JOCKE
walker & jocke LPA
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER
ADE, OGER GARCIA

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

APR 29 2008

TECHNOLOGY CENTER 3600

RALPH E. JOCKE
WALKER & JOCKE LPA
231 SOUTH BROADWAY
MEDINA, OH 44256

In re Application of	:	
R. Michael McGrady et al.	:	**DECISION ON PETITION**
Application No. 09/849,625	:	**TO WITHDRAW RESTRICTION**
Filed: May 04, 2001	:	**REQUIREMENT UNDER**
For: METHOD OF TRACKING AND	:	**37 CFR 1.144**
DISPENSING MEDICAL ITEMS	:	

This is in response to applicants' petitions filed under 37 CFR 1.181 received August 10, 2005 and February 2, 2007, which will be treated as petitions under 37 CFR 1.144, requesting the withdrawal of the restriction requirement made in the office action of June 28, 2005.

A review of the file reveals that the Examiner withdrew said restriction requirement and rejoined all pending claims in the office action mailed on March 7, 2006.

The petition is **DISMISSED as moot**.

Any questions regarding this decision should be directed to Matthew S. Gart, Supervisory Patent Examiner, at (571) 272-3955.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/msg: 4/14/2008

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.
09/849,626	**7/2/01**	**CHAITANYA S. BANGUR, ET AL**	**210121.478C16**

Title: **COMPOSITIONS AND METHODS FOR THE THERAPY AND DIAGNOSIS OF LUNG CANCER**

Art Unit	Paper Number

Correspondence Address:
JAMES M. VERNA
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

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: 527,170

Grant Date: 03-Jul-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.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

12 APR 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

Shahan Islam
Rosenman & Colin LLP
575 Madison Avenue
New York NY 10022

In re Application of	:	DECISION ON
Hartmut Schon	:	
Application No.: 09/849,678	:	
Filing Date: 15 March 2005	:	PETITION UNDER
Attorney's Docket No.: 20093	:	
For: APPARATUS FOR THE PROVISION	:	
... FLUIDIZED BAD REACTORS	:	

This is in response to "PETITION PURSUANT TO 37 CFR 1.137(b) TO REVIVE APPLICATION FOR FILING OF CONTINUATION APPLICATION" filed on 15 March 2005.

Applicant's petition under 37 CFR 1.137(b) filed 15 March 2005 to revive international application PCT/EP99/08001 abandoned under 35 U.S.C. 371(d) is hereby **DISMISSED** as to the National stage in the United States of America as follows:

On 27 October 1999, a Demand electing the United States was filed in this international application. International application PCT/EP99/08001 became abandoned as to the United States of America at midnight on 07 May 2001 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is not accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)) because applicant will need to have the application co-pending under 37 CFR 1.78 to claim benefit to the international application.

A proper statement under 37 CFR 1.78 for co-pendency would be "this application is a continuation (instead of National stage) of International Application No.: PCT/EP99/08001, filed October 27, 1999, which claims priority to a German Application No. 198 51 423.9, filed November 7, 1998 in the first page of the specification.

For reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.137(b) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Failure to timely submit the proper reply will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

12 APR 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

Shahan Islam
Rosenman & Colin LLP
575 Madison Avenue
New York NY 10022

In re Application of	:	DECISION ON
Hartmut Schon	:	
Application No.: 09/849,678	:	
Filing Date: 15 March 2005	:	PETITION UNDER
Attorney's Docket No.: 20093	:	
For: APPARATUS FOR THE PROVISION	:	
... FLUIDIZED BAD REACTORS	:	

This is in response to "PETITION PURSUANT TO 37 CFR 1.137(b) TO REVIVE APPLICATION FOR FILING OF CONTINUATION APPLICATION" filed on 15 March 2005.

Applicant's petition under 37 CFR 1.137(b) filed 15 March 2005 to revive international application PCT/EP99/08001 abandoned under 35 U.S.C. 371(d) is hereby **DISMISSED** as to the National stage in the United States of America as follows:

On 27 October 1999, a Demand electing the United States was filed in this international application. International application PCT/EP99/08001 became abandoned as to the United States of America at midnight on 07 May 2001 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is not accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)) because applicant will need to have the application co-pending under 37 CFR 1.78 to claim benefit to the international application.

A proper statement under 37 CFR 1.78 for co-pendency would be "this application is a continuation (instead of National stage) of International Application No.: PCT/EP99/08001, filed October 27, 1999, which claims priority to a German Application No. 198 51 423.9, filed November 7, 1998 in the first page of the specification.

For reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.137(b) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Failure to timely submit the proper reply will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

26 AUG 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

Katten, Muchin, Zavis Rosenman
575 Madison Avenue
New York NY 10022-2585

In re Application of	:	DECISION ON RENEWED
Hartmut Schon	:	
Application No.: 09/849,678	:	
Filing Date: 15 March 2005	:	PETITION UNDER
Attorney's Docket No.: 20093	:	
For: APPARATUS FOR THE PROVISION	:	
... FLUIDIZED BAD REACTORS	:	37 CFR 1.137(b)

This is in response to "REQUEST FOR RECONSIDERATION," which is being treated as a Renewed Petition Under CFR 1.137(b)" filed on 15 April 2005.

Applicants' petition under 37 CFR 1.137(b) filed 15 March 2005 to revive international application PCT/EP99/08001 abandoned under 35 U.S.C. 371(d) was dismissed since on12 April 2005 the application lacked the proper statement for co-pendency.

On 15 April 2005, applicant filed a renewed petition to revive international application PCT/EP99/08001 and the proper statement has been provided for co-pendency purposes.

Applicants' petition under 37 CFR 1.137(b) filed 15 April 2005 to revive international application PCT/EP99/08001 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/EP99/08001 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/849,678.

This application is being forward to Office Initial Patent Examination (OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
Smith et al
Application Number: 09/849,707
Patent: 6,775,112
Attorney Docket Number:
50019.57US1/P04868
Filing Date: May 4, 2001
Issue Date: August 10, 2004

COPY MAILED
AUG 1 6 2005
OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on June 29, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Petitioner has submitted a $400.00 petition fee. Pursuant to petitioner's request deposit account 13-2725 is being refunded $270.00. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(l) is $130.00. A petition fee is no longer required.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES G. NESSLER
P.O. BOX H
CHESTER, CT 06412

COPY MAILED

SEP 06 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kruger, et al. :
Application No. 09/849,768 :
Filed: May 4, 2001 :
Attorney Docket No. STT-0003 :

This is a decision on the petition under 37 CFR 1.137(a), filed November 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply to the "Notification of Non-compliance with Requirements of 37 CFR 1.92(c)" mailed January 29, 2004, which set a shortened period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on March 1, 2004. The instant petition was filed on September 14, 2004. Petitioner maintains that the notice of January 29, 2004, was never received. It is noted that the instant petition is titled, "Petition to Revive Unintentionally Abandoned Application" which would be filed under 37 CFR 1.137(b). The current fee for a petition under 37 CFR 1.137(b) is $750.00 (small entity). However, a review of the petition reveals that, with exception of the title, all other facets of the petition, including the fee, are indicative of a petition filed under 37 CFR 1.137(a) for 'unavoidable' abandonment. The petition is being treated as petition filed under 37 CFR 1.137(a). If this is not what was intended, petitioner must contact the undersigned immediately.

The appeal brief filed September 14, 2004, is noted.

The file is now being directed to Technology Center 2600, GAU 3671 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KANG LIM
3494 CAMINO TASSAJARA ROAD #436
DANVILLE, CA 94506

Mail Date: 07/06/2010

Applicant	: Michael Neal	: DECISION ON REQUEST FOR
Patent Number	: 7660734	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/849,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

MAILED

FEB 1 8 2003

Technology Center 2600

In re Application of :
Jeremy Paatela, et al. :
Application No. 09/849,804 :
Filed: May 4, 2001 :
For: SYSTEN AND METHOD FOR PROVIDING :
TRANSFORMATION OF MULTI-PROTOCOL :
PACKETS IN A DATA STREAM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 10, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Jeremy Paatela
8091 Woodhill Drive
Rockford, MN 55373

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

MAILED

FEB 1 9 2003

Technology Center 2600

In re Application of
Rodolfo Santiago et al
Application No. 09/849,810
Filed: May 4, 2001
For: **SYSTEM AND METHOD FOR HIERARCHICAL POLICING OF FLOWS AND SUBFLOWS OF A DATA STREAM**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 10, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Rodolfo Santiago
2121 Glenhurst Road
St. Louis Park, MN. 55416

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Douglas A. Chaikin, Esq.
PENINSULA IP GROUP
26150 Bucks Run
Corral de Tierra CA 93908

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Hideki Itaya et al	:	
Application No. 09/849,857	:	DECISION ON PETITION
Filed: May 3, 2001	:	
Attorney Docket No. HCDII785	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 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 May 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 8, 2006 (August 5, 2006, the due date, is a Saturday). A Notice of Abandonment was mailed on March 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of May 5, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1743 for appropriate action in the normal course of business on the reply received March 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 08/03/05

Patent No. :6843563 B2
Patent Issued : 01/18/05
Docket No. : **P03083**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 03/03/06, please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester NY 14604-2701

LMN

Ex Zara

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/849,866

Paper No.: _____

DATE : 3/21/06

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: 6955902

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments:

Amendments to specification must have markings in text indicating deletion or addition of amended text on corresponding pages.

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1635
Art Unit

Ex Zara

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/849,866

Paper No.: _____

DATE : 3/21/06

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: 6955902

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments:

Amendments to specification must have markings in text indicating deletion or addition of amended text on corresponding pages.

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1635
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

COPY MAILED

JUN 2 2 2005

OFFICE OF PETITIONS

INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

In re Application of	:
Kim	: DECISION ON APPLICATION FOR
Application No.: 09/849,885	: PATENT TERM ADJUSTMENT
Filed: May 2, 2001	:
Atty. Dkt. No.: 2100653-991350	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" timely filed March 31, 2005.

This request is being treated as an application for patent term adjustment under 37 C.F.R. § 1.705(b).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **GRANTED**.

The PAIR screen will be updated to reflect that the Patent Term Adjustment determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 560 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant argues that the 172 days of patent term adjustment indicated in the Determination of Patent Term Adjustment mailed February 11, 2005 is in error and assert that an adjustment of 560 days is appropriate.

A review of the application history reveals that an adjustment under 37 CFR 1.702(a)(1) of 506 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began July 3, 2002, the day after the date that is 14 months after the date on which the application was filed, and ended November 20, 2003, the date the non-final Office action was mailed.

The Office, however, errantly entered January 19, 2005 as the date a response to the non-final Office action was filed. The non-final Office action was mailed November 20, 2003 and a proper response was in fact submitted on May 20, 2004 along with

a petition for a three month extension of time, as indicated on the copy of the Auto-Reply Facsimile Transmission contained in the official application file.

Thus, the adjustment of 506 days is reduced 90 days in accordance with 37 C.F.R. § 1.704(b). The reduction began February 21, 2004, the day after the date that is three months from the date the non-final Office action was mailed, and ended May 20, 2004, the date a response to the non-final Office was filed.

An additional adjustment under 37 CFR 1.702(a)(2) of 144 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began September 21, 2004, the day after the date that is three months after the date that the response to the non-final Office action was filed, and ended February 11, 2005, the date the Notice of Allowance was mailed.

In view thereof, at the time of Notice of Allowance, applicant was entitled to an adjustment 560 days[1].

The Office acknowledges receipt of the required application fee of $200.00.

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.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

[1] The total adjustment of 650 days being reduced a total of 90 days resulting in an adjustment of 560 days.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED
JUN 0 8 2009
OFFICE OF PETITIONS

In re Patent No. 6,952,749	:	
Issue Date: October 04, 2005	:	
Application No. 09/849,885	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: May 02, 2001	:	
Attorney Docket No. NVID-P003062	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 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.

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

cc: **KENDAL M. SHEETS**
CPA NORTH AMERICA, LLC
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 9

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

MAILED

FEB 1 9 2003

Technology Center 2600

In re Application of :
Scott Sarkinen et al :
Application No. 09/849,913 :
Filed: May 4, 2001 :
For: **METHOD AND APPARATUS FOR PROVIDING MULTI-PROTOCOL, MULTI-STAGE, REAL-TIME FRAME CLASSIFICATION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 10, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Scott Sarkinen
7580 Knollwood Drive
Mounds View, MN. 55112

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 9

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

MAILED

JAN 3 1 2003

Technology Center 2600

In re Application of :
Glenn Buskirk et al :
Application No. 09/849,914 :
Filed: May 4, 2001 :
For: **SYSTEM AND METHOD FOR POLICING MULTIPLE DATA FLOWS AND MULTI-PROTOCOL DATA FLOWS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 10, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Glenn Buskirk
8463 Pineview Lane North
Maple Grove, MN 55369

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction on Patent No.: 7174482

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

2114
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED

NOV 28 2001

OFFICE OF PETITIONS

In re Application of	:	
Jean-Marc Villaret et al	:	DECISION GRANTING
Application No. 09/849,925	:	PETITION
Filed: May 4, 2001	:	
Attorney Docket No. 10005203-1	:	

This is a decision on the paper styled "Petition For Corrected Filing Date and Corrected Filing Receipt" filed September 28, 2001, requesting that the above-identified application be accorded a filing date of May 4, 2001, rather than the presently accorded filing date of May 7, 2001. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 4, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provide a copy of the Express Mail label, receipt no. EL735699613US. The same Express Mail label number appears on the copy of the original application transmittal letter submitted with the present petition. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "Saint Paul MN USPS" receipt stamp dated "May 4, 2001".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 4, 2001.

The petition is granted. A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2167 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Daymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of
Faulks, et al. : LETTER REGARDING PTA
Application No. 09/849,935 :
Filed: May 4, 2001 :
Atty. Dkt. No.: 00732 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 16, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 128 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 128 days.

Patentees indicate that a possible error appears in the calculation of PTA and suggests a PTA of 133 days is in error.

A review of the application history reveals that the Determination of Patent Term Adjustment of 133 days is in error. An adjustment of 279 days under 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office[1]. The adjustment 279 days can be reduced a total of 151 days for applicants' failure to engage in reasonable efforts to conclude prosecution[2].

---

[1] In accordance with 37 CFR 1.703(a)(1), the delay began July 5, 2002, the day after the date that is 14 months after the date on which the application was filed, and ended April 9, 2003, the date the non-final Office action was mailed.

[2] The calculations of the reductions are as follows: **5 days** under 37 CFR 1.704(b) commencing December 11, 2001, the day after the date that is three months after the Notice was mailed on July 10, 2001, and ended October 15, 2001, the date of receipt of applicants' response to the Notice; **2 days** under 37 CFR 1.704(b) commencing July 10, 2003, the day after the date that is three months after the date the non-final Office action was mailed on April 9, 2003, and ended July 11, 2003, the date a response was submitted; **34 days**

As patentees are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the 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.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation

---

under 37 CFR 1.704(b) commencing January 11, 2004, the day after the date that is three months after the second non-final Office action was mailed, and ended February 13, 2004, the day a response was submitted; **20 days** under 37 CFR 1.704(c)(8) commencing February 14, 2004, the day after the date the initial reply was filed, and ending March 4, 2004, the date that the supplemental reply, i.e., IDS, was filed; and **90 days** under 37 CFR 1.704(b) commencing August 20, 2004, the day after the date that is three months after the third non-final Office action was mailed, and ended November 17, 2004, the date a response was submitted.

UNITED STATES 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.

Patrick G. Burns, Esq.
Greer Burns & Crain Ltd.
300 S. Wacker Drive, Suite 2500
Chicago, IL 60606

COPY MAILED
MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Hyodo, et al.	:	
Application No. 09/849,966	:	ON PETITION
Filed: May 4, 2001	:	
Attorney Docket No. 2803.65479	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK G BURNS
GREER BURNS & CRAIN
300 S WACKER DR SUITE 2500
CHICAGO, IL 60606

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Hyodo et al :
Application No. 09/849,966 : ON PETITION
Filed: May 4, 2001 :
Attorney Docket No. 2803-65479 :

This is a decision on the petition under 37 CFR 1.173(b), filed May 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 4, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on April 6, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 15, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 4, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1773 for processing of the RCE and for consideration of the Amendment filed May 9, 2005.

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

ALFRED A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

COPY MAILED

NOV 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Ravi Ganesan, et al.	:	
Application No. 09/849,978	:	DECISION ON REQUEST
Filed: May 8, 2001	:	TO WITHDRAW
Attorney Docket No. 23952-0128	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed June 27, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with Customer No. 020457 was revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

There is no outstanding Office action that requires a reply from applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPARTMENT)
CHECKFREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 16 2007

OFFICE OF PETITIONS

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of	:	
Ravi Ganesan et al	:	
Application No. 09/849,979	:	ON PETITION
Filed: May 8, 2001	:	
Attorney Docket No. 23952-0127	:	

This is a decision on the petition, filed July 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

COPY MAILED
JUL 21 2008
OFFICE OF PETITIONS

In re Application of	:	
GANESAN et al.	:	
Application No. 09/849,979	:	DECISION ON APPLICATION
Filed: May 8, 2001	:	FOR
Atty. Docket No. 23952-0127	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT RECONSIDERATION," filed December 14, 2007. Applicants request correction of the patent term adjustment from 502 days to 1,012 days partly on the basis of the Office taking in excess of three years to issue the patent.

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 determination at the time of the mailing of the notice of allowance is **572 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.[1]

On September 14, 2007, 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 502 days. In response, applicants timely[2] filed the instant request for reconsideration of the patent term adjustment. Applicants request that the patent term adjustment be corrected to 1,012 days. Applicants dispute the reduction pursuant to 37 CFR 1.704(b) of 71 days. Further, applicants assert that the Office's delay pursuant to 37 CFR 1.703(e) should be calculated as 590 days, not 591 days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 502 days is incorrect. The Office mailed a nonfinal Office action on August 19, 2003. However, the Office action was not mailed to the correspondence address of record. The record supports a conclusion that this was due to an error on the part of the Office in mailing the nonfinal Office action to applicants. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed on October 29, 2003. Applicants' response filed January 29, 2004, was received within the three-month period after the date of the mailing of the Office action as re-mailed on October 29, 2003. Accordingly, a period of reduction of 71 days is not warranted.

---

[1] Applicants' assertion that the patent term adjustment should be reduced for filing amendments on February 27, 2007, and May 3, 2007, after the mailing of the notice of allowance under 37 CFR 1.704(c)(10) is premature and will not be addressed in the present petition under 37 CFR 1.705(b).

[2] Office records indicate that the issue fee payment was received on December 14, 2007.

Additionally, applicants aver that the Office's delay pursuant to 37 CFR 1.703(e) should be calculated as 590 days, not 591 days. Applicants assert that the calculation of patent term adjustment was calculated using March 1, 2006, as the date of the final decision by the Board of Patent Appeals and Interferences instead of February 28, 2006. The record supports applicants' assertion that the Decision on Appeal was mailed on February 28, 2006. Thus, the period of adjustment pursuant to 37 CFR 1.703(e) is 590 days, the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed, July 19, 2004, and ending on the date of a final decision in favor of applicants by the Board of Patent Appeals and Interference, February 28, 2006.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **572 days** (605 days of Office delay - 33 days of applicant delay).

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 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 Data Management for issuance of the patent.

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 the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Sunday
Date: 7/20/2008

PALM INTRANET

Time: 09:31:47

PTA Calculations for Application: 09/849979			
Application Filing Date:	05/08/2001	PTO Delay (PTO):	606
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	104
Post-Issue Petitions:	0	Total PTA (days):	572
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
134	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
124	09/14/2007	MAIL NOTICE OF ALLOWANCE			
123	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
122	08/30/2007	ISSUE REVISION COMPLETED			
121	08/30/2007	DOCUMENT VERIFICATION			
120	08/30/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
119	08/30/2007	NOTICE OF ALLOWABILITY			
118	07/19/2007	DATE FORWARDED TO EXAMINER			
117	07/13/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
116	07/19/2007	DATE FORWARDED TO EXAMINER			
115	07/13/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
114	07/19/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
113	07/16/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
112	07/13/2007	PETITION ENTERED			
111	07/13/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
110	07/13/2007	WORKFLOW - QUERY REQUEST - FINISH			
109	07/12/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
108	07/11/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
107	05/03/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
106	05/15/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			

105	05/15/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
104	05/02/2007	WORKFLOW - QUERY REQUEST - BEGIN			
103	04/20/2007	EXPORT TO FINAL DATA CAPTURE			
102	04/19/2007	DISPATCH TO FDC			
101	04/12/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
100	04/11/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
99	02/27/2007	RESPONSE TO REASONS FOR ALLOWANCE			
98	02/27/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
97	02/28/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
96	02/27/2007	ISSUE FEE PAYMENT VERIFIED			
95	02/27/2007	WORKFLOW - DRAWINGS FINISHED			
94	02/27/2007	ISSUE FEE PAYMENT RECEIVED			
93	01/26/2007	FINISHED INITIAL DATA CAPTURE			
92	12/01/2006	EXPORT TO INITIAL DATA CAPTURE			
91	11/27/2006	MAIL NOTICE OF ALLOWANCE			
90	11/27/2006	MAIL FORMAL DRAWINGS REQUIRED			
89	11/27/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
88	11/27/2006	MAIL EXAMINER'S AMENDMENT			
87	11/25/2006	CORRECTED FILING RECEIPT			
86	11/25/2006	EXAMINER'S AMENDMENT COMMUNICATION			
85	11/25/2006	ISSUE REVISION COMPLETED			
84	11/25/2006	FORMAL DRAWINGS REQUIRED			
83	11/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	11/25/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
81	02/17/2005	MISCELLANEOUS INCOMING LETTER			
80	11/25/2002	NEW OR ADDITIONAL DRAWING FILED			
79	04/09/2002	MISCELLANEOUS INCOMING LETTER			
78	07/13/2001	MISCELLANEOUS INCOMING LETTER			
77	07/13/2001	SUBSTITUTE SPECIFICATION FILED			
76	07/13/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
75	07/13/2001	NEW OR ADDITIONAL DRAWING FILED			

74	05/08/2001	PRELIMINARY AMENDMENT			
73	11/21/2006	NOTICE OF ALLOWABILITY			
72	11/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
71	09/27/2006	DATE FORWARDED TO EXAMINER			
70	09/11/2006	RESPONSE AFTER NON-FINAL ACTION			
69	08/04/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
68	07/26/2006	MISCELLANEOUS ACTION WITH SSP			
67	03/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
66	03/01/2006	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	591		47
65	02/28/2006	BPAI DECISION - EXAMINER AFFIRMED IN PART			
64	01/09/2006	MISCELLANEOUS INCOMING LETTER			
63	01/09/2006	MISCELLANEOUS INCOMING LETTER			
62	01/09/2006	CONFIRMATION OF HEARING BY APPELLANT			
61	09/28/2005	DOCKETING NOTICE MAILED TO APPELLANT			
60	09/28/2005	ASSIGNMENT OF APPEAL NUMBER			
59	09/19/2005	CORRESPONDENCE ADDRESS CHANGE			
58	09/20/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
57	08/03/2005	APPEAL AWAITING BPAI DOCKETING			
56	05/18/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
55	05/16/2005	REPLY BRIEF NOTED BY EXAMINER			
54	02/15/2005	REQUEST FOR ORAL HEARING			
53	03/03/2005	DATE FORWARDED TO EXAMINER			
52	02/15/2005	REPLY BRIEF FILED			
51	12/16/2004	MAIL EXAMINER'S ANSWER			
50	12/13/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
49	09/23/2004	DATE FORWARDED TO EXAMINER			
48	09/20/2004	APPEAL BRIEF FILED			
47	07/19/2004	NOTICE OF APPEAL FILED			
46	07/15/2004	MAIL ADVISORY ACTION (PTOL - 303)			
45	07/14/2004	ADVISORY ACTION (PTOL-303)			
44	07/02/2004	DATE FORWARDED TO EXAMINER			
43	06/21/2004	AMENDMENT AFTER FINAL REJECTION			
42	04/19/2004	MAIL FINAL REJECTION (PTOL - 326)			
41	04/19/2004	FINAL REJECTION			

40	02/11/2004	DATE FORWARDED TO EXAMINER			
39	01/29/2004	RESPONSE AFTER NON-FINAL ACTION		71	28
38.7	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	11/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
35	10/29/2003	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
34	10/29/2003	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
33	09/25/2003	MISCELLANEOUS INCOMING LETTER			
32	10/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
31	09/09/2003	CORRESPONDENCE ADDRESS CHANGE			
30	09/10/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
29	09/09/2003	CORRESPONDENCE ADDRESS CHANGE			
28	08/19/2003	MAIL NON-FINAL REJECTION			
27	08/11/2003	NON-FINAL REJECTION			
26	06/04/2003	DATE FORWARDED TO EXAMINER			
25	05/23/2003	RESPONSE AFTER NON-FINAL ACTION			
24	02/27/2003	MAIL NON-FINAL REJECTION			
23	02/24/2003	NON-FINAL REJECTION			
22	11/25/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
21	11/25/2002	SUBSTITUTE SPECIFICATION FILED			
20	12/18/2002	DATE FORWARDED TO EXAMINER			
19	11/25/2002	RESPONSE AFTER NON-FINAL ACTION		33	14
18	11/25/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	11/25/2002	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
16	11/15/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
15	11/15/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
14	07/23/2002	MAIL NON-FINAL REJECTION	15		-1
13	07/12/2002	PRELIMINARY AMENDMENT			
12	06/03/2002	NON-FINAL REJECTION			
11	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			

10	05/08/2001	PRELIMINARY AMENDMENT			
9	10/30/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	09/24/2001	APPLICATION DISPATCHED FROM OIPE			
7	06/04/2001	APPLICATION IS NOW COMPLETE			
6	06/04/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/04/2001	CORRESPONDENCE ADDRESS CHANGE			
4	06/04/2001	CORRESPONDENCE ADDRESS CHANGE			
3	06/01/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/08/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
APR 27 2006
OFFICE OF PETITIONS

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

In re Application of	:	
Jang Geun Oh et al	:	
Application No. 09/850,059	:	ON PETITION
Filed: May 8, 2001	:	
Attorney Docket No. P-180	:	

This is a decision on the petition, filed April 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2116 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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) :Jang Geun Oh et al
Application No. :09/850,059
Filed :May 8, 2001

The above-identified application has been assigned Patent No. 7,047,429 and an issue date of May 16, 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 16, 2006:

"All reference to Patent No. 7,047,429 to Jang Geun Oh et al of Korea for METHOD AND APPARATUS FOR ADJUSTING CLOCK THROTTLE RATE BASED ON USAGE OF CPU appearing in the Official Gazette of May 16, 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
101 I STREET NW
WASHINGTON DC 20005

COPY MAILED

FEB 08 2005

OFFICE OF PETITIONS

In re	:
Ono, et al.	: DECISION ON APPLICATION
Application No. 09/850,167	: FOR PATENT TERM ADJUSTMENT
Filed: May 8, 2001	: AND
Patent No. 6,712,896	: NOTICE OF INTENT TO ISSUE
Issued: March 30, 2004	: CERTIFICATE OF CORRECTION

This is a decision on the "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed December 12, 2003 and the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 22, 2004. Applicants request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from twenty-one (21) day to seventy-seven (77) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seventy-seven (77) days**.

On September 16, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term

adjustment (PTA) to date was one hundred thirty-one (131) days. Applicants timely filed the "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT" on December 12, 2003.[1] On March 30, 2004, the above-identified application matured into U.S. Patent No. 6,647,316. The patent issued with a Patent Term Adjustment of twenty-one (21) days.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of twenty-one (21) days based on an adjustment for PTO delay of seventy-seven (77) days pursuant to 35 U.S.C. §154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and eighteen (18) and thirty-six (36) days pursuant to 35 U.S.C. §154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by applicants' delay of one hundred ten (110) days pursuant to 35 U.S.C. §154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(10). The PTO delay of 77 days has been reviewed and found to be correct. The adjustments of 18, 36, and 110 days are at issue.

The adjustment of 18 days has been found to be incorrect. A review of the file reveals that Applicants filed a "RESPONSE TO RESTRICTION REQUIREMENT" on December 23, 2002. In response, the PTO mailed an Office action on March 11, 2003. As this was within the four month period pursuant to 37 C.F.R. §1.703(a)(2), no PTO delay should have been assessed.

Similarly, the adjustment of 36 days has also been found to be incorrect. Applicants filed an amendment on July 22, 2003. In response, the PTO mailed a Notice of Allowance on September 16, 2003. As this was within the four month period pursuant to 37 C.F.R. §1.703(a)(2), no PTO delay should have been assessed.

Lastly, Applicants were assessed delay of 110 days for the filing of "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT". However, pursuant to 37 C.F.R. §1.704(e), the submission of an application for patent term adjustment is not considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, Applicants should have incurred no delay for this filing.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322 is appropriate.

---

[1] The application for patent term adjustment was filed on the same date as the issue fee.

The $200 fee set forth in 37 C.F.R. §1.18(e) for the "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT" has been charged to Deposit Account No. 06-0916, as authorized. However, the $200 fee for the "APPLICATION FOR PATENT TERM ADJUSTMENT" under 37 C.F.R. §1.705(d) is being waived by the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. §254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seventy-seven (77) days** subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A. Ferriter
per

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
CIRA CENTRE 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:
Frederick Murray Burg et al	:
Application No. 09/850,181	: DECISION GRANTING PETITION
Filed: May 7, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CING0385/567.US	:

This is a decision on the petition, filed September 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 31, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Sept10\850181.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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 5

Timothy H. Gens
THE TECHNOLOGY LAW GROUP
265 Cambridge Avenue
Box 61029
Palo Alto, CA 94306

MAIL

MAY 2 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:)
Buswell et al.)
Application No. 09/850,184) **DECISION ON REQUEST FOR**
Filed: May 7, 2001) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR)
REGISTRY FLYING IN A
NETWORK

This is a decision on the Request To Withdraw from Representation filed May 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 filed May 17, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. James Eakin
3150 Porter Drive
Palo Alto, CA 49306

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.
09/850,203	05/08/2001	Yuji Saito	101213-00009	9728

7590 01/27/2005

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 600
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

EXAMINER
DOVE, TRACY MAE

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 01/27/2005

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

January 25, 2004

In re Application of	:	
Yuji Saito et al.	:	
Serial Number : 09/850,203	:	WITHDRAWAL
Filed : May 08, 2001	:	FROM
For : FUEL CELL AND METHOD FOR	:	ISSUE
MAKING THE SAME	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Arent Fox Kintner Plotkin & Kahn, PLLC
Suite 600
1050 Connecticut Avenue, NW
Washington, DC 20036-5339

cc:Allowed Files, Pk3-910