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Paper No.

SANDRA M. PARKER, ESQ.
LAW OFFICE OF SANDRA M.
PARKER
329 La Jolla Avenue
LONG BEACH, CA 90803

COPY MAILED
MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of :
John Mark Zetts : DECISION ON PETITION
Application No. 09/850,253 :
Filed: May 7, 2001 :
Atty Docket No.STL920000106US1:

This is a decision on the PETITION FOR REVIVAL Under 37 CFR 1.137(a) filed December 23, 2005, to revive the above-identified application based on unavoidable delay.

The petition under § 1.137(a) is **DISMISSED**.

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

BACKGROUND

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within three months of the mailing date of the Notice of Allowance and Fee(s) Due mailed June 17, 2005. This Notice set a three-month nonextendable period for response. No response having been filed, the application became abandoned by operation of law on September 18, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Consideration of Petition under § 1.137(a)

A grantable petition to revive an unavoidably abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

The petition included the required reply in the form of payment of the issue fee and the publication fee[1]. Payment of a petition fee is a statutory prerequisite to consideration of a petition to revive. The petition fee is being charged to Deposit Account No. 09-0460, as authorized. This utility application was filed after June 8, 1995, and thus, no terminal disclaimer is required. Requirement (3) is at issue in this case.

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). 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

[1] There was no distinct but concurrent requirement for corrected drawings. It is acknowledged that the supplemental Notice of Allowability mailed September 2005 still does not acknowledge the drawings filed September 10, 2001.

> unavoidable, all other conditions of promptness in its rectification being present.

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

Petitioner argues that the delay was unavoidable because i) there were serious errors in the Notice of Allowability, ii) given these errors that were the fault of the examiner, and based on telephone calls to the examiner and to the supervisory patent examiner, it was agreed that the applicant should not have to pay, and iii) a supplemental Notice of Allowability was mailed correcting the errors, but it was mailed after the due date for response to the original Notice and it did not restart the period for response.

Petitioner's explanation has been considered, but not found adequate to meet her burden of showing that the delay was unavoidable.

The Notice of Allowance and Fee(s) Due mailed June 17, 2005 clearly and boldly states:

> 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.

37 CFR § 1.2 provides, in pertinent part, that:

> ... 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.

It is undisputed that no written communication was mailed to applicant restarting the period for response set in the Notice of Allowance mailed June 17, 2005. September 19, 2005 arrived with no change in the requirement to pay fees by that date or to have the application regarded as abandoned. Yet, applicant did not pay the required fees by September 19, 2005 (or file a petition to withdraw from issue pursuant to 1.313(c)(1) based on the alleged errors in the Notice of Allowability).

Further, even if the Office were to look at oral communications, petitioner acknowledges that the examiner is in disagreement as to whether it was stated that the fee had to be timely paid. Petitioner indicates that the examiner maintains that in his 8/30/05 telephone conversation, he requested the applicant to pay the issue fee. This situation illustrates the basis for the Office relying on the written record of the application. The expectations for action by the applicant and the requirements of the examiner are set forth in the written record, including any modifications or corrections. (Note: The e-mails supplied are not persuasive. Regardless, it is noted that the e-mail communications presented on petition are not part of the written record of the application).

Furthermore, the examiner does not have the authority to extend the period for response to a Notice of Allowance. The examiner stating that an applicant does not have to pay the fee required in the Notice of Allowance is not effective to avoid abandonment for failure to pay the fee within the time required by the Notice (or to invalidate the Notice). As long as the Notice of Allowance was not vacated or the application withdrawn from issue, the application was subject to abandonment for failure to timely pay the issue fee and publication fee. The statute requires, as follows:

35 U.S.C. 151 Issue of patent.

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.
>
> ...
>
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

Conclusion

In view thereof, it is concluded that petitioner has failed to establish to the satisfaction of the Director that the delay in payment of the issue fee (and publication fee) was unavoidable within the meaning of § 1.137(a).

The showing required under §1.137(a) is exacting, and petitioner has not met that showing. Petitioner is not precluded from providing further evidence on request for reconsideration to show that the facts and circumstances of the delay in this case warrant revival under § 1.137(a). However, petitioner is advised of an alternative venue for relief, under § 1.137(b). Petitioner may file a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under § 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 set forth in 37 C.F.R. § 1.17(m); (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional"; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d). (Item (4) is not required in this case).

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

petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this 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
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Paper No.

SANDRA M. PARKER, ESQ.
LAW OFFICE OF SANDRA M.
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329 La Jolla Avenue
LONG BEACH, CA 90803

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
John Mark Zetts : DECISION ON PETITION
Application No. 09/850,253 :
Filed: May 7, 2001 :
Atty Docket No.STL920000106US1:

This is a decision on the RENEWED PETITION FOR REVIVAL Under 37 CFR 1.137(a) and 1.137(b) filed on July 3, 2006, to revive the above-identified application based on unavoidable delay, or in the alternative based on unintentional delay.

The petition under § 1.137(a) is **GRANTED**.

The above-identified application became abandoned effective September 18, 2005, for failure to timely pay the issue fee and publication fee within three months of the mailing date of the Notice of Allowance and Fee(s) Due mailed June 17, 2005. A courtesy Notice of Abandonment was mailed on May 8, 2006.

By decision mailed May 2, 2006, the initial petition filed December 23, 2005 was dismissed for failure to make a showing to the satisfaction of the Director that the delay in paying the issue fee and publication fee was unavoidable within the meaning of § 1.137(a).

On instant petition, petitioner submitted additional argument and evidence to support their showing of unavoidable delay. Having considered the facts and circumstances of the delay at issue, it is concluded that, in this instance, the delay is

unavoidable within the meaning of 1.137(a). Petitioner previously submitted the required reply in the form of payment of the issue fee and the publication fee. Petitioner has now met all requirements for revival of this application pursuant to 37 CFR 1.137(a).

This decision is limited to the facts and circumstances of this case. Petitioner is reminded that the business of the Office is conducted in writing pursuant to § 1.2, and that oral assurances from an examiner or other USPTO employee should not be relied on to avoid abandonment of an application or as a basis for excusing the abandonment of an application.

Given the granting of this petition pursuant to § 1.137(a), consideration of the petition, in the alternative, under § 1.137(b) is unnecessary. Accordingly, no petition fee for such consideration has been charged.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 28, 2005

TO SPE OF : ART UNIT 2114 (*Exr. is Nadeem Iqbal*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,912,671

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 IDS not located in IFW contents. 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:

_____

_____

_____

_____

_____

_____ 4/3/06

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : August 11, 2008

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/850300 Patent No.: 6912671 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to: 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 88 pt

Comments: _____

_____

_____

_____

_____

/Scott T. Baderman/ 2114

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

Mail Date: 07/29/2010

Applicant	: Mark A. Terribile	: DECISION ON REQUEST FOR
Patent Number	: 7653787	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/850,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/07/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2153** 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
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Paper No. 9

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COLUMBUS, IN 47202

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APR 16 2003

OFFICE OF PETITIONS

In re Application of :
John David Kerr. :
Application No. 09/850,315 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 8-02-4264 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2003 (certification of mailing of February 18, 2003), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November, 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 3, 2002.

A petition fee of $1300.00 to revive a patent application abandoned unintentionally under 37 CFR 1.137(b) has been charged to applicant's deposit account.

Telephone inquiries concerning this decision should be directed to Phillip Gambel at (703) 305-4066.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

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MAY 0 7 2003

OFFICE OF PETITIONS

In re Application of
William F. McDonald et al
Application No. 09/850,324
Filed: May 7, 2001
Attorney Docket No. 044829-0127

: 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 April 18, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on May 7, 2001 and was pending at the time of filing of the instant petition.

The reference to the prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed April 18, 2003 fails to state the relationship of Application No. 09/671,784, filed September 27, 2000; and Application No. 09/698,619, filed October 27, 2000, to the instant application.

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

In order to expedite consideration, petitioner may wish to submit the substitute amendment and request for reconsideration of this decision by facsimile transmission to the number indicated below and t th attention of Karen Creasy **.**

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

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

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 15

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MAY 2 8 2003

OFFICE OF PETITIONS

In re Application of
William F. McDonald et al
Application No. 09/850,324
Filed: May 7, 2001
Attorney Docket No. 044829-0127

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on May 23, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

The instant pending application was filed on May 7, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 1711 for processing the amendment filed May 23, 2003 and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED

JAN 24 2002

OFFICE OF PETITIONS

In re Application of
Walker, Suarez, Tulley, Bemer, Fincham,
Nicoulin, Booth, Polad & Friesen
Application No. 09/850,328
Filed: May 7, 2001
Attorney Docket No. 00-101
For: METHOD AND APPARATUS FOR ESTABLISHING PRICES FOR A PLURALITY OF PRODUCTS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 2, 2001 (certificate of mailing September 28, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventor, Elizabeth Nicoulin, has refused to join in the filing of the above-identified application after having been presented with the application papers . Specifically, the declaration of facts of Veronika Leliever and Michael Brinton, both paralegals with Walker Digital, establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt. Thereafter the application will be returned to Technology Center 2100 for further processing.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELIZABETH NICOULIN
245 96TH STREET
APT. B4
BROOKLYN NY 11209

COPY MAILED

JAN 24 2002

OFFICE OF PETITIONS

In re Application of
Walker, Suarez, Tulley, Bemer, Fincham,
Nicoulin, Booth, Polad & Friesen
Application No. 09/850,328
Filed: May 7, 2001
Attorney Docket No. 00-101
For: METHOD AND APPARATUS FOR ESTABLISHING PRICES FOR A PLURALITY OF PRODUCTS

LETTER

Dear Ms. Nicoulin:

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

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

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

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

E. Shirene Willis

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

ATTORNEY OF RECORD: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

UNITED STATES 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: __

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JUN 22 2006

OFFICE OF PETITIONS

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of :
Lindsey :
Application No.: 09/850,441 :
Filing Date: 7 May, 2001 :
Attorney Docket No. 200301792-1 :

DECISION

This is a decision on the petition filed on 31 May, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Non-Responsive Amendment mailed on 27 July, 2005, with reply due absent extension of time on or before Monday, 29 August, 2005;
- the instant application went abandoned after midnight 27 August, 2005;
- the Office mailed the Notice of Abandonment on 19 April, 2006;
- the record indicates that the mailing address to which the 27 July, 2005, Notice was

mailed was other than that previously and subsequently of record for Petitioner, and, further, Petitioner timely Noticed the Office on becoming aware of the matter;.

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 of candor and to disclose.[1]

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[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) & (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]

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, 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]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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

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

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

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

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

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

of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was

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

> required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

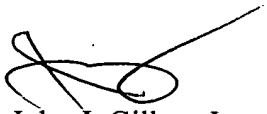
As of this writing Petitioner appears to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**, the 19 April, 2006, Notice of Abandonment is **vacated**, and fees for the instant petition are waived.

The application is released to Technology Center 2100 to remail and reset the reply time for the non-final Office action previously mailed on 27 July, 2005, 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

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.
09/850,441	05/07/2001	Alan M. Lindsey	2007.018500	1716

22506 7590 07/27/2005

~~JAGTIANI + GUTTAG~~
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

EXAMINER	
JONES, HUGH M	

ART UNIT	PAPER NUMBER
2128	

DATE MAILED: 07/27/2005

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

DETAILED ACTION

Introduction

1. Claims 1-9, 11-33, 35-41, 43-52 of U.S. Application 09/850,441, filed 05/07/2001 are pending.

Response to Amendment

2. The reply filed on 5/5/2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants have not acted upon or acknowledged paragraphs 2-3 of the office action of 2/9/2005. The paragraphs are repeated for Applicant's convenience. See 37 CFR 1.111. This appears to be an oversight. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

4. **Please provide a copy of all references cited in the specification, including incorporated material, which is considered essential.**

5. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to:

Dr. Hugh Jones telephone number (703) 305-0023, Monday-Thursday 0830 to 0700 ET, *or* the examiner=s supervisor, Kevin Teska, telephone number (703) 305-9704.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group receptionist, telephone number (703) 305-3900.

mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051 (for formal communications intended for entry) ***or***

(703) 308-1396 (for informal or draft communications, please label A*PROPOSED*≡ or A*DRAFT*≡).

Dr. Hugh Jones
Primary Patent Examiner
July 24, 2005
23

HUGH JONES Ph.D.
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091118

DATE : November 18, 2009

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7149529

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:

/Dwayne Bost/
Supervisory Patent Examiner.Art Unit 2617

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

HICKMAN PALERMO TRUONG & BECKER LLP
1600 WILLOW STREET
SAN JOSE, CA 95125-5106

COPY MAILED

JAN 25 2002

OFFICE OF PETITIONS

In re Application of	:
Lakshmi Narasimha Ankireddipally et al.	:
Application No. 09/850,521	: DECISION GRANTING
Filed: May 4, 2001	:STATUS UNDER 37 CFR 1.47(a)
For: DISTRIBUTED TRANSACTION PROCESSING SYSTEM	:

This is in response to the petition under 37 CFR 1.47(a), filed January 7, 2002 (certificate of mailing November 27, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

LAKSHMI NARASIMHA ANKIREDDIPALLY
1063 MORSE AVENUE #4203
SUNNYVALE, CA 94089

In re Application of
Lakshmi Narasimha Ankireddipally; Ryh-Wei Yeh; Dan Nichols; Ravi Devesetti
Application No. 09/850,521
Filed: May 4, 2001
For: DISTRIBUTED TRANSACTION PROCESSING SYSTEM

COPY MAILED

JAN 25 2002

OFFICE OF PETITIONS

Dear Mr. Ankireddipally:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Hickman, Palermo, Truong & Becker PPL
1600 Willow Street
San Jose, CA 95125-5106

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Howard A. Heller :
Application No. 09/850,531 : DECISION ON PETITION
Filed: May 7, 2001 : TO WITHDRAW
Attorney Docket No. 2479.2079-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 11, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee discharged firm and request transfer", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 8, 2007 does not include a proper chain of title.

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

There is an outstanding Office action mailed March 20, 2007 that requires a reply form the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: VOLPE AND KOENIG, PC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
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

Paper No. 5

Harold E. Meier
Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas, TX 75201

COPY MAILED

DEC 26 2001

OFFICE OF PETITIONS

In re Application of
Daniel M. Davenport
Application No.09/850,541
Filed: May 7, 2001
Title: METHOD AND SYSTEM FOR ACCESSING DATA IN A DATABASE WAREHOUSE

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition for status under 37 C.F.R. §1.47(b), filed September 5, 2001.

The petition is **GRANTED**.

The above-identified application was filed on May 7, 2001, without an executed oath or declaration. Daniel M. Davenport was named as the sole inventor. Accordingly, on July 5, 2001, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, and pay a surcharge for late filing.

In response, on September 5, 2001 applicant filed:

- a declaration of Harold Meier, attorney of applicant,
- a declaration of Elizabeth Sharon Shields, legal assistant of applicant,
- employment agreement between e-systems and non-signing inventor (exhibit A)
- documents to establish ownership of invention (exhibits B-L),
- correspondence with non-signing inventor (exhibits M-N),
- delegation of authority by Vice President of Applicant to execute, obtain and maintain patent applications on behalf of applicant corporation (exhibit O),
- the surcharge under 1.16(e)for late filing, and
- a petition (and fee) under §1.47(b).

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor had been presented with a copy of the application papers for signature and that he had refused by his conduct to sign the declaration. Applicant submitted a declaration signed by David L Kissingler. Mr. Kinsingler, Deputy Chief Patent Counsel, was delegated the authority to execute the declaration from Thomas D. Hyde, Senior Vice President of applicant corporation. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

petition. The employment agreement (exhibit A) and documents which establish the chain of ownership (exhibits B-L) establish the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

The power of attorney, submitted with the petition, has been made of record.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DEC 26 2001

OFFICE OF PETITIONS

Daniel M. Davenport
1046 Greenfield Circle
State College, PA 16801

In re Application of
Daniel M. Davenport
Application No.09/850,541
Filed: May 7, 2001
Title: METHOD AND SYSTEM FOR ACCESSING DATA IN A DATABASE WAREHOUSE

LETTER

Dear Mr. Davenport:

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). Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

CC: Harold E. Meier
Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 19

ROBERT M. BAUER ESQ
BROWN RAYSMAN MILLSTEIN FELDER & STEINER
900 THIRD AVE
NEW YORK, NY 10022

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JUL 2 0 2004
OFFICE OF PETITIONS

In re Application of
Lakaniemi, et al.
Application No.: 09/850,559
Filed: May 7, 2001
Attorney Docket No: NC19240

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), May 3, 2004, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed December 5, 2002. The notice set a shortened statutory period for reply of three months from its mailing date. A response was filed on March 17, 2003 (certificate of mailing dated March 10, 2003), along with a request for an extension of time within the second month. The response failed to place the application in condition for allowance and the application became abandoned on March 6, 2003.

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

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

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

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

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

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

Examiner Michael Molinari has determined that the amendment filed May 3, 2004, failed to place the application in condition for allowance. A proper response must be filed with any renewed petition. A proper response would be a Request for Continued Examination under 37 CFR 1.114 or an amendment that places the application in condition for allowance.

Deposit account 50-2032 will be charged $1,330.00 for the instant petition fee.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 22

ROBERT M. BAUER ESQ.
BROWN RAYSMAN MILLSTEIN
FELDER & STEINER
900 THIRD AVE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of

Lakaniemi, et al.

Application No. 09/850,559

Filed: May 7, 2001

Attorney Docket No. NC19240

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed December 5, 2002, which set a shortened statutory period for reply of three (3) months. A response was filed on March 17, 2003, but it failed to place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on March 6, 2003. A petition under 37 CFR 1.137(b) was filed on May 3, 2004, and dismissed by a decision mailed July 20, 2004.

The Request for Continued Examination filed August 11, 1004, is noted and made of record.

Deposit account 02-4270 will be charged $770.00 for the fee associated with the Request for Continued Examination.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

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

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Francesco de Buzzaccarini et al :
Application No. 09/850,571 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. CM2436 :

This is a decision on the petition under 37 CFR 1.173(b), filed April 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 1, 2003, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on December 2, 2003. See MPEP 1215.04.

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.

Pursuant to petitioner's authorization, Deposit Account No. 16-2480 was charged a total of $1,750.00 -- $1500.00 for the petition to revive an unintentionally abandoned application and $790.00 for the RCE fee.

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

The file is being forwarded to Technology Center AU 1751 for processing of the request for continued examination under 37 CFR 1.114 filed April 21, 2005 and for consideration of the concurrently filed amendment.

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

CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth P. Dudek et al :
Application No. 09/850,644 :
Filed: May 4, 2001 :
Attorney Docket No. GP-300919 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed February 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 May 14, 2004.

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

This matter is being referred to Technology Center AU 2684.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~4/30/05~~ 7/24/06

Paper No.: ____

TO SPE OF : ART UNIT 2634

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/850,652 Patent No.: 6944849

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.

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

Comments: _____

Chris Kelley — SPE

2611 — Art Unit

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/850,657	17-Apr-03	DONALD W. OWENS	NONE

Title: METHOD AND APPARATUS FOR INCREASING THE RATING OF A TRANSFORMER

Art Unit	Paper Number

Correspondence Address:
EUSTACE P. ISIDORE
BRACEWELL & PATTERSON, LLP.
111 CONGRESS AVENUE, SUITE 2300
AUSTIN, TEXAS 78701

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

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

Eustace P. Isidore
BRACEWELL & PATTERSON, L.L.P.
111 Congress Avenue, Suite 2300
Austin, Texas 78701-4043

In re:	Owen	:	DECISION ON REQUEST
Serial No.:	09/850,657	:	UNDER 37 CFR 5.25
Filing date:	May 7, 2001		
Docket No:	0809CG-002		

Title: METHOD AND APPARATUS FOR INCREASING THE RATING OF A TRANSFORMER

This is a decision on the petition filed on April 17, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

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

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(iii) have not been met.

The petition lacks sufficient facts about the circumstances surrounding discovery of the proscribed filings. Specifically, questions as to when and how discovery of the proscribed flings need further clarification. Finally, an affadavit by the person or persons who had knowledge and made the actual decision to file the application in the foreign country would be beneficial.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and

in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
Group 3600
(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.
09/850,657	4/17/03	DONALD W. OWENS	NONE

Title: METHOD AND APPARATUS FOR INCREASING THE RATING OF A TRANSFORMER

Art Unit	Paper Number

Correspondence Address:
EUSTACE P. ISIDORE
BRACEWLL & PATTERSON, L.L.P.
P.O. BOX 969
AUSTIN, TEXAS 78767

PATENT & TRADEMARK OFFICE
MAILED
OCT 10 2003

LICENSING & REVIEW

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

License Number: 531,366

Grant Date: 10-Oct-03

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

Approved:
for Commissioner of Patents and Trademarks

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

This license is granted under 37 CFR 5.15(a)

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

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

LICENSE FOR FOREIGN FILING

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

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

Eustace P. Isidore
BRACEWELL & PATTERSON LLP
111 Congress Avenue, Suite 2300
Austin, Texas 78701

In re: Owen
Serial No.: 09/850,657
Filing date: May 7, 2001
Docket No: 0809CG-002

: DECISION ON REQUEST
: UNDER 37 CFR 5.25

Title: METHOD AND APAPRATUS FOR INCREASING THE RATING OF A TRANSFORMER

In view of the communication(s) filed June 25, 2003, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
CANADA	May 11, 2000

Approved:

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

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

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Michael A. Masini	: DECISION ON REQUEST FOR
Patent Number	: 7585323	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/850,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/07/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Karen I. Trovato, et al. :
Application No. 09/850,755 :
Filed: May 8, 2001 :
Attorney Docket No. US010198 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 26, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 27, 2001.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of John Vodopia appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Vodopia desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

EDMUND P. ANDERSON
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF, MAIL CODE: 480-414-420
P.O. BOX 5052
TROY, MI 48007-5052

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JAN 30 2004

OFFICE OF PETITIONS

In re Application of :
Buyun Liu et al :
Application No. 09/850,758 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. DP-302631

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 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 2834 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
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Paper No. 8

Maryam Imam
111 North Market Street
Suite 1010
San Jose, CA 95113

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DEC 09 2003

OFFICE OF PETITIONS

In re Application of :
Petro Estakhri et al. :
Application No. 09/850,790 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 38979-58C4 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 25, 2001, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 26, 2001.

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

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

Latrice Bond
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

GATEWAY, INC.
ATTN: PATENT ATTORNEY
610 GATEWAY DR.
MAIL DROP Y-04
N. SIOUX CITY SD 57049

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OFFICE OF PETITIONS

In re Application of :
Daniel C. Milius et al. :
Application No. 09/850,800 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 2015 :

This is a decision on the petition filed February 8, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned September 8, 2005 for failure to timely pay the issue fee on or before September 7, 2005. Accordingly, a Notice of Abandonment was mailed November 7, 2005.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Paul Thomas Quinlan
Application No. 09/850,804
Filed: May 8, 2001
Attorney Docket No. F7538(V)

ON PETITION

This is a decision on the petition, filed March 12, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A non-Final Office Action was mailed July 5, 2006 which set a three month period for response. No response having been filed, this application became abandoned October 6, 2006. Accordingly, a Notice of Abandonment was mailed January 18, 2007. Petitioner argues however that a response was filed on January 5, 2007 with a three month extension of time and provides copies of the response filed with a copy of a post card receipt post marked on January 8, 2007 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed with a three month extension of time and thus was timely filed on January 5, 2007 (certificate of mail date). The receipt date for the amendment and three month extension of time is January 8, 2007 and a copy of the post-card receipt, date stamped by the USPTO on January 8, 2007 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed January 18, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1761 for treatment of the amendment filed January 5, 2007 as appropriate.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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APPLIED MATERIALS, INC.
PATENT COUNSEL; LEGAL AFFAIRS DEPT.
P.O. BOX 450A
SANTA CLARA, CA 95052

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APR 17 2007

OFFICE OF PETITIONS

In re Patent No. 6,914,009 :
Issue Date: July 5, 2005 :
Application No. 09/850,853 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. AM5334 :

This is a decision on the petition filed October 23, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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Mailed:

11/17/05

In re application of
Peter F. Heilmayr
Serial No. 09/850,857
Filed: May 8, 2001
For: Composite Panel

DECISION ON
PETITION

This is a response to the PETITION UNDER RULE 181(a) TO Notice of Non-Compliant Amendment, filed May 13, 2005. The petition requests that the notice mailed December 17, 2004 was not received.

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 notice mailed December 17, 2004. The evidence provided includes a declaration by the individual handling docketing for the papers associated with application. Applicant became aware of the non-compliant amendment by checking PAIR. Once applicant became aware of the non-compliant notice, a response was filed and the appropriate extension fees for filing within the fourth month were paid.

Applicant is requesting that the extension fees for filing a response within the fourth month be waived.

The Petition is **GRANTED**.

The extension fee for filing a response within the fourth month will be refunded to Applicant's Deposit Account No. 50-2555.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Charles D. Gunter, Jr.
Whitaker, Chalk, Swindle & Sawyer, LLP
301 Commerce St, Suite 3500
Fort Worth, Texas 76102

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Paper No. 20

HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME, CA 94011-4787

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
Gittings et al.
Application No. 09/850,883
Filed: May 7, 2001
Attorney Docket No. 009-C1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 19, 2003, 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 13, 2002, which set a non-extendable period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 14, 2003. A Notice of Abandonment was mailed on April 23, 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 2800 for treatment of the Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 25

HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME, CA 94011-4787

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AUG 24 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Darin C. Gittings, et al. :
Application No. 09/850,883 :
Filed: May 7, 2001 :
Attorney Docket No. 009-C1 :

This is a decision on the petition, filed August 20, 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 May 19, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 filed August 20, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

SAMUEL H. DWORETSKY
AT&T CORP.
P O BOX 4110
MIDDLETOWN, NJ 07748-4110

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Harvey R. Bialk et al :
Application No. 09/850,910 : DECISION GRANTING PETITION
Filed: May 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ATTB 0102 PUS :

This is a decision on the petition, filed September 15, 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 May 6, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 12, 2004 has been mailed under separate cover.

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 2611 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,916	05/08/2001	Howard Turner	SMX 3099.13	3071

321 7590 10/25/2004

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER	
SODERQUIST, ARLEN	

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 10/25/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of	:	
Turner, Howard	:	NOTICE OF WITHDRAWAL
Serial No. 09/850,916	:	FROM ISSUE
Filed: May 8, 2001	:	UNDER 37 CFR 1.313(b)
For: PARALLEL REACTOR WITH INTERNAL SENSING	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Jill Warden at (571) 272-1267.

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

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Senniger Powers Leavitt and Roedel
One Metropolitan Square
16th Floor
St Louis, MO 63102

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Binnig :
Application No. 09/850,928 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 03400.P002X :
For: METHOD FOR CHARACTERIZING A COMPLEX SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed on June 27, 2005 (certificate of mailing date June 22, 2005) to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the October 18, 2004 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on January 19, 2004. A Notice of Abandonment was mailed on June 15, 2005.

Applicant has submitted an amendment in reply to the October 18, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 18, 2004 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 2100's technical support staff for processing the amendment filed on June 27, 2005 (certificate of mailing date June 22, 2005).

---

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
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LOS ANGELES, CA 90025

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JAN 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,117,131 :
Issue Date: October 3, 2006 :
Application No. 09/850,928 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 3400P002X :

This is a decision on the petition, filed December 26, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee, International Business Machines Corporation, on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

It is noted that a request for a certificate of correction under § 1.323 and the $130 processing fee set forth in § 1.17(i) has been submitted; however, the $100 fee required by § 1.20(a) has not been paid. Accordingly, the $100 fee required by § 1.20(a) is being charged to counsel's deposit account as authorized.

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

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 10

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

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Main et al.
Application No. 09/850,949
Filed: May 7, 2001
Attorney Docket No. 017887004010

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

This is a decision on the petition, filed March 16, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 7, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 15, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center AU 3627 to await a reply to the outstanding non-final Office action mailed March 25, 2004. Failure to timely reply will again result in the abandonment of the application.

Any inquiries concerning this decision may 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

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OFFICE OF PETITIONS

In re Application of :
Robert Allen Main et al :
Application No. 09/850,949 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 017887-004010US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 8, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 9, 2005.

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

This matter is being referred to Technology Center AU 3627 for further processing.

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

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Allen Main et al	:	
Application No. 09/850,949	:	DECISION ON PETITION
Filed: May 7, 2001	:	TO WITHDRAW
Attorney Docket No. 017887-004010US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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 applicants.

This application is being referred to Technology Center AU 3627.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE
YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 7

APPLIED MATERIALS, INC.
2881 Scott Blvd., M/S 2061
Santa Clara, CA 95050

AUG 13 2003

In re Application of: :
GOPAL *et al.* :
Application No. 09/850,951 : DECISION
Filed: May 07, 2001 :
Attorney Docket No. 005805/CSM/CSM :

This is a decision on the petition filed March 04, 2003, under 37 CFR § 1.181, to withdraw the holding of abandonment in the above identified application. No petition fee is required.

The request is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Office action mailed on March 14, 2002. A Notice of Abandonment was mailed on February 26, 2003.

Petitioner asserts that on May 03, 2002, a response including an amendment and election was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of a response bearing a certificate under 37 CFR 1.8(a), signed and dated May 03, 2002, and a statement under 37 CFR § 1.8(b)(3), from the practitioner which attests, on a personal knowledge basis, that the response was deposited with the United States Postal Service On May 03, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b), provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate;

and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the conditions set forth by 37 CFR 1.8, for establishing the previous timely filing of the response. Accordingly, the petition is **granted.** The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on March 04, 2003, is accepted since the response originally submitted was apparently lost.

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

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-4858.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/13/05

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: 09/850975 6927803

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

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

Thank You For Your Assistance

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

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

Note your decision on the appropriate box.

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

Comments:

EXAMINER left out (by MISTAKE) ORIGINAL Claim 18 (which is renumbered to claim 14), where original claim 16 (is renumbered as claim 12)

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2614
Art Unit

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,927,803

APPLICATION NO.: 09/850,975

DATED: AUGUST 9, 2005

INVENTOR(S): NAOKI TOYAMA ET AL.

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

Column 12
Line 61, add the following:

--14. The method of mixing videos of Claim 12, wherein the first and second oval bodies share a common center of the reference color of the screen, and the first and second oval bodies are similar in shape.--

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

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 completing the form, call 1-800-PTO-9199 and select option 2.

DEC 5 2005

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Paper No. 9

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

MAIL

JAN 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Michael Cristofalo
Application No. 09/851,030
Filed: May 7, 2001
For: SYSTEM AND METHOD FOR PROVIDING TARGETED PROGRAMMING OUTSIDE OF THE HOME

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 28, 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.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future correspondence will continue to be directed to the above address until such a time as a request for change of address is filed. A courtesy copy of this decision is being sent to petitioner at the address provided below.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

cc: John T. Kennedy
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

COPY MAILED

JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Michael Cristofalo :
Application No. 09/851,030 : DECISION ON PETITION
Filed: May 7, 2001 : TO WITHDRAW
Attorney Docket No. 559442004300 : 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 29, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 30, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

COPY MAILED

MAY 30 2007

OFFICE OF PETITIONS

In re Application of :
Michael Cristofalo :
Application No. 09/851,030 : DECISION ON PETITION
Filed: May 7, 2001 : TO WITHDRAW
Attorney Docket No. 559442004300 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 28 2006

OFFICE OF PETITIONS

Applied Biosystems
500 Old Connecticut Path
Framingham, MA 01701

In re Application of
Parker et al.
Application No. 09/851,058
Filed: May 08, 2001
Attorney Docket No. SYP-172

: DECISION REGARDING PTA

This decision is in response to Applicants' "LETTER REGARDING PATENT TERM ADJUSTMENT)" filed on June 29, 2005 asserting that applicants believe that they received too much PTA at the time of the mailing of the notice of allowance.

The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED.** The Office will adjust the amount of PTA from a determination of three hundred and ninety-six (396) days to a determination of three hundred and sixteen (316) days.

The Office agrees that too much PTA was awarded at the time of the mailing of the notice of allowance. The determinations of two hundred and sixty (260) and two hundred and five (205) days are not accurate. The mailing of the letter regarding sequence submission is not considered an action within the meaning of 35 U.S.C. 132 and therefore should not be a measuring point under 37 CFR 1.702(a)(1). Nor is the response by applicant to sequence letter put the Office on a clock pursuant to 37 CFR 1.702(a)(2). Accordingly, the two determinations are in error. The Office should have measured the period under 37 CFR 1.702(a)(1) as three hundred and eighty-five (385) days.[1] Accordingly, the overall amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixteen days(385+ 10 -(2)-(21)-56= 316) days.

After the mailing of the Office action, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the application.

Any additional delays in failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4) will be added at the time of the issuance of the patent and notice will be mailed to applicants in the Issue Notification letter that is mailed approximately three weeks prior to issuance.

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

---

[1]The period began on July 9, 2002, day after 14 month deadline and ended on the date of the mailing of the non-final rejection on July 28, 2003, a three hundred and eighty-five day delay

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

/Kery A Fries/

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

cc: Adjusted PAIR calculation

Day : Monday
Date: 2/27/2006

PALM INTRANET

Time: 14:45:55

PTA Calculations for Application: 09/851058			
Application Filing Date:	05/08/2001	PTO Delay (PTO):	475
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	79
Post-Issue Petitions:	0	Total PTA (days):	316
PTO Delay Adjustment:	-80		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	02/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		465	
51	02/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	385		
43	03/29/2005	MAIL NOTICE OF ALLOWANCE			
42	03/29/2005	MAIL EXAMINER'S AMENDMENT			
41	03/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	03/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
39	03/18/2005	EXAMINER'S AMENDMENT COMMUNICATION			
38	03/18/2005	NOTICE OF ALLOWABILITY			
37	03/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	03/01/2005	DATE FORWARDED TO EXAMINER			
35	02/17/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	03/01/2005	DATE FORWARDED TO EXAMINER			
33	02/17/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		56	30
32	03/01/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	02/17/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	09/23/2004	MAIL FINAL REJECTION (PTOL - 326)			
29	09/20/2004	FINAL REJECTION			
28	07/09/2004	DATE FORWARDED TO EXAMINER			
27	07/01/2004	RESPONSE AFTER NON-FINAL ACTION		21	23
26	07/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/01/2004	WORKFLOW INCOMING PETITION IFW			

24	07/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	03/10/2004	MAIL NON-FINAL REJECTION	10		20
22	03/08/2004	NON-FINAL REJECTION			
21	11/04/2003	DATE FORWARDED TO EXAMINER			
20	10/30/2003	RESPONSE AFTER NON-FINAL ACTION		2	19
19	07/28/2003	MAIL NON-FINAL REJECTION	205		16
18	07/28/2003	NON-FINAL REJECTION			
17	05/09/2003	DATE FORWARDED TO EXAMINER			
16	09/04/2002	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
15	05/09/2003	MAIL NOTICE OF RESCINDED ABANDONMENT			
14	05/09/2003	NOTICE OF RESCINDED ABANDONMENT IN TCS			
13	04/02/2003	ERROR(S) IN CRF CORRECTED BY STIC			
12	03/25/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION	260		-1
11	03/24/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
10	08/14/2002	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
9	08/14/2002	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
8	10/01/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	07/16/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
6	09/13/2001	APPLICATION DISPATCHED FROM OIPE			
5	07/03/2001	APPLICATION IS NOW COMPLETE			
4	07/03/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/02/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/15/2001	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

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John P. White
Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of :
SCHMIDT et al. : NOTICE
Application No. 09/851,071 :
Filed: 05/08/2001 :
Attorney Docket No. 0575/55424- :
Z/JPW/SHS/MVM :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 16, 2007.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037

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MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Teruyasu Watabe	:	
Application No. 09/851,082	:	DECISION GRANTING PETITION
Filed: May 9, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. R2184.0079/P079-A	:	

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 28, 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 2653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

[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).*

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)
6493929	2002-12-17	09851115	2001-05-09	3107-067

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2007-11-03
Name	Bruce H. Troxell	Registration Number	26592

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6493929
Issue Date: December 17,2002
Application No. 09851115
Filed: May 9,2001
Attorney Docket No. BHT-3107-67

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

This is a decision on the electronic petition, filed November 3,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: AUG 25 2004

rvk
Paper Number:_____

In re application of: :
X.D. Hu : DECISION ON
Serial No. 09/851,177 : PETITION
Filed: May 08, 2001 :
For: HIGH SURFACE AREA, SMALL CRYSTALLITE SIZE CATALYST FOR FISCHER-TROPRSCH SYNTHESIS:

This is a response to the REQUEST FOR WITHDRAWAL OF HOLDING ABANDONMENT BASED ON REPLY TIMELY FILED AND RECEIVED IN THE OFFICE BUT NOT CORRELATED WITH THE APPLICATION PURSUANT TO 37 C.F.R. 1.181, filed May 24, 2004. The requester asks that the abandonment, as set forth in the Notice of Abandonment of November 18, 2003, for failure to timely file a proper response to the Office letter dated May 26, 2003 be withdrawn. The requester asserts that applicants timely filed a proper response and Petition for Extension of Time on September 24, 2003.

DECISION

The instant 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 presented is sufficient to establish that the applicants did file the proper response to the Office letter of May 26, 2003 in a timely manner. The evidence provided includes: 1) copies of the Response (Exhibit A) to the Office letter dated May 26, 2003 and a Petition for three months Extension of Time with payment by credit card of $930.00 (Exhibit B) with Certificates of Facsimile Transmission thereon certifying that the Response and Petition for Extension of Time were timely transmitted to the USPTO on September 24, 2003; and 2) a copy of the Auto-Reply Facsimile Transmission

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Report confirming receipt of the Response and Petition for Extension of Time dated September 24, 2003 with a Certificate of Transmission by Facsimile.

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 September 24, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUD-CHEMIE INC.
1600 WEST HILL STREET
LOUISVILLE KY 40210

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
X.D. Hu et al	:	
Application No. 09/851,177	:	DECISION GRANTING PETITION
Filed: May 8, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ZL494/01001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 20, 2008, and supplemented on June 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 13, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/851,177	05/08/2001	X.D. Hu	ZL494/01001

CONFIRMATION NO. 2722

80464
SUD-CHEMIE Inc.
1600 West Hill Street
Louisville, KY 40210

POA ACCEPTANCE LETTER

OC000000030637074

Date Mailed: 06/24/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/23/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kocreasy/

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

DATE 8/22/07 APPLICATION NUMBER 09/851,185

DOC CODE COCX DOC DATE 8/22/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/16/2005

TO SPE OF : ART UNIT **3723**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/851185 6837779

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

SPE

3723
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

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

COPY MAILED

JAN 26 2009

OFFICE OF PETITIONS

In re Application of :
Samuel D. Pritchett et al. :
Application No. 09/851,191 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. TI-31005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of July 16, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 17, 2008. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 $120 extension of time fee submitted on

September 19, 2008, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2611 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
Jeffry G. Weers, et al. :
Application No. 09/851,226 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 0073.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

This petition lacks item 1 above. 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 this case, petitioner submitted an issue fee payment of $1,400 on October 26, 2007; however, effective September 30, 2007 the issue fee was increased to $1,440. Since any fee amount paid on or after September 30, 2007, must be paid in the revised amount, the issue fee payment is deficient by $40. It is noted that the petition did not include an authorization to charge a fee deficiency to a deposit account. Accordingly, the petition cannot be granted at this time.

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

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ASHOK K. JANAH
650 DELANCEY STREET, SUITE 106
SAN FRANCISCO, CA 94107

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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ASHOK K. JANAH
JANAH & ASSOCIATES, P.C.
650 DELANCEY STREET, SUITE 106
SAN FRANCISCO, CA 94107

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JUL 22 2008

OFFICE OF PETITIONS

In re Application of
Jeffry G. Weers, et al.
Application No. 09/851,226
Filed: May 8, 2001
Attorney Docket No. 0073.00

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 19, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 17, 2007. A Notice of Abandonment was mailed on August 13, 2007. On October 26, 2007, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed February 27, 2008. In response, on March 19, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Petitioner is advised that this decision is being mailed to the address given on the petition as requested; however, a change of address should be filed in accordance with MPEP 601.03 to change the address of record.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 15 2006

DUANE MORRIS, LLP
380 LEXINGTON AVENUE
NEW YORK, NY 10168

In re Application of	:
John Hamilton	:
Serial No.: 09/851,230	: PETITION DECISION
Filed: May 8, 2001	:
Attorney Docket No.: E1679-00007	:

This is in response to the petition under 37 CFR 1.181, filed May 30, 2006, requesting the Office to determine the priority date of a reference.

BACKGROUND

Applicant requests the Office to determine the correct or proper priority date of a reference cited against the above identified application under 35 U.S.C. 102(e) in the last Office action mailed March 28, 2006. US Patent Application Publication No. US2002/0141994 to Devalaraja et al based on SN 09/885,259, filed February 23, 2001, was published on October 3, 2002, and will mature into US Patent 7,108,852 on September 19, 2006. SN 09/885,259 was originally filed as a provisional application on February 23, 2001 and was assigned SN 60/270,948 and consisted of a specification, claims and drawings, as required for a complete application, but lacked a declaration of the inventors. The provisional application contained no priority claim. On July 9, 2001, applicants filed a petition in SN 60/270,948 to convert the application to a non-provisional application and included an amendment to the specification to claim priority to an earlier provisional application, SN 60/190,842, filed March 20, 2000. The petition to convert was granted on September 5, 2001. The original filing receipt issued by the Office did not include the priority claim, but a later corrected filing receipt did. Applicant requests that the priority date accorded the publication be that of its filing date, February 23, 2001.

DISCUSSION

Applicant argues that the '994 publication cannot have an earlier priority date than the date of its filing and the claim of priority to an earlier provisional application is invalid. Applicant's first argument is to the effect that a provisional application cannot claim priority to any other earlier filed application. This is correct. The '994 when filed as a provisional application did not and could not have a priority claim to any other application. It is duly noted that the two provisional applications were copending for approximately four weeks before SN 60/190,842 became abandoned by operation of law one year from its date of filing. SN 60/270,948 was a proper provisional application as of its date of filing. However, upon conversion to a non-provisional

application on September 5, 2001, it became a non-provisional application having the same filing date as the provisional application since the provisional application was a complete application under 35 U.S.C. 111(a), except for the missing declaration. An application filed under 35 U.S.C. 111(a) should include a priority claim when filed, however applicants are give a period of four months from date of filing or 16 months from earliest priority date claimed, to insert a proper priority claim without penalty. Applicants complied with these provisions by inserting a priority claim at the time of filing the petition for conversion to a non-provisional application. The priority claim was proper since both applications were copending for at least a brief period of time and it was made within the time periods set in the Rules of Practice. Thus a priority date of March 20, 2000, for the subject matter supported by SN 60/190,842 is proper and the reference is properly applied under 35 U.S.C. 102(e).

While applicant argues that 35 U.S.C. 119(e) provides domestic priority for applications filed under 35 U.S.C. 111(a) within one year of the filing date of the provisional application, and that the later application was not a non-provisional application until after that one year period had passed, the conversion of a provisional application to a non-provisional application acts to provide the converted application with a non-provisional filing date which is the same as the original provisional filing date. Thus the requirements of 35 U.S.C. 119(e) are satisfied.

Note, if applicants had filed the '994 publication as a non-provisional application on February 23, 2001, without a priority claim and then inserted a priority claim on July 9, 2001, the claim would have been considered proper by applicant and no argument would have been made.

Applicants also argue the provisions of the Paris Convention Treaty provide for only 12 months (one year) of foreign priority and that the above scenarios could, in effect, provide for up to two years of foreign priority. However, foreign priority is not at issue here, only domestic priority and applicants' arguments are considered moot since the Treaty does not apply to domestic priority.

DECISION

The petition is **DENIED**. The '994 publication is correctly accorded a priority date of March 20, 2000, and is correctly applied under 35 U.S.C. 102(e).

Applicant remains under obligation to reply to the Office action mailed March 28, 2006, within the time period set therein, or as extended under 37 CFR 1.136(a).

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

John L. LeGuyader
Director, Technology Center 1600

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DUANE MORRIS LLP
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK, NY 10036-4086

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of :
John Hamilton, et al. :
Application No. 09/851,230 : DECISION ON PETITION
Filed: May 8, 2001 : TO WITHDRAW
Attorney Docket No. E1679-00007 : 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 6, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "case has been transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL E. ALTMAN
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
14TH FLOOR
IRVINE, CA 92614

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DUANE MORRIS LLP
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK NY 10036-4086

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
John Hamilton, et al. :
Application No. 09/851,230 : DECISION ON PETITION
Filed: May 8, 2001 : TO WITHDRAW
Attorney Docket No. MORPS.001AUS : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 15, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Russell Timm of Duane Morris, LLP 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 below-listed address until otherwise properly notified by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL E. ALTMAN
KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
14TH FLOOR
IRVINE, CA 92614

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Paper No.

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Hamilton et al.	:	
Application No. 09/851,230	:	LETTER REGARDING
Filed: May 8, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. MORPS.001AUS	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed July 21, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the patent term adjustment indicated on the initial determination of patent term adjustment may be incorrect.

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

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 10, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 107 days. Applicants point out that a period of reduction should have been entered for the filing of a supplemental information disclosure statement (IDS) on July 21, 2008.

Applicants are correct. 37 CFR 1.704 (c) provides 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, in response to the final rejection mailed April 23, 2007, on August 23, 2007, applicants filed a request for continued examination (RCE). Pursuant to 37 CFR 1.704(b), a period of reduction of 31 days was entered for the filing of the RCE. A review of the record confirms that thereafter, on September 26, 2007, applicants filed a supplemental IDS. The IDS was not expressly requested by the examiner and did not include a §1.704(d) statement. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 34 days should have been entered.

Moreover, a review of the record reveals a further basis for entry of a period of reduction. In response to the non-final Office action mailed October 5, 2006, on October 27, 2006, applicants filed a response. Thereafter, on March 6, 2007, applicants filed a request to correct inventorship. The record does not support a conclusion that the request to correct inventorship was expressly requested by the examiner. Pursuant to § 1.704(c)(8), an additional period of reduction of 130 days should have been entered for the filing of the request to correct inventorship on March 6, 2007.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is ZERO (0) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

PTA Calculations for Application: 09/851230			
Application Filing Date:	05/08/2001	PTO Delay (PTO):	494
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	387
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-164		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
127	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		130	
126	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		34	
106	07/10/2008	MAIL NOTICE OF ALLOWANCE			
105	06/23/2008	ISSUE REVISION COMPLETED			
104	06/19/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
103	06/19/2008	DOCUMENT VERIFICATION			
102	06/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
101	06/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
100	06/19/2008	NOTICE OF ALLOWABILITY			
99	05/15/2008	CORRESPONDENCE ADDRESS CHANGE			
98	05/15/2008	DATE FORWARDED TO EXAMINER			
97	03/17/2008	RESPONSE AFTER NON-FINAL ACTION			
95	02/12/2008	ELECTRONIC REVIEW			
94	02/09/2008	EMAIL NOTIFICATION			
93	02/08/2008	MAIL NON-FINAL REJECTION	47		86
92	02/01/2008	NON-FINAL REJECTION			
91	08/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
89	01/30/2008	DATE FORWARDED TO EXAMINER			
88	08/23/2007	RCE- AF PROCESSED			
87	01/30/2008	DATE FORWARDED TO EXAMINER			
86	08/23/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	71
85	01/30/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

84	01/30/2008	CORRESPONDENCE ADDRESS CHANGE			
83	12/21/2007	MAIL-PETITION DECISION - DISMISSED			
82	12/21/2007	PETITION DECISION - DISMISSED			
81	09/26/2007	REFERENCE CAPTURE ON IDS			
80	09/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	08/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
76	08/15/2007	PETITION ENTERED			
75	08/10/2007	CORRESPONDENCE ADDRESS CHANGE			
74	07/31/2007	MAIL-PETITION DECISION - DISMISSED			
73	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
72	12/07/2006	PETITION ENTERED			
71	04/23/2007	MAIL FINAL REJECTION (PTOL - 326)	55		65
69	03/06/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
68	01/19/2007	FINAL REJECTION			
66	11/14/2006	DATE FORWARDED TO EXAMINER			
65	10/27/2006	RESPONSE AFTER NON-FINAL ACTION			
64	10/05/2006	MAIL NON-FINAL REJECTION			
63	09/29/2006	NON-FINAL REJECTION			
62	09/15/2006	MAIL-PETITION DECISION - DENIED			
61	05/30/2005	PETITION ENTERED			
60	07/19/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
59	07/20/2006	DATE FORWARDED TO EXAMINER			
58	07/19/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	07/20/2006	DATE FORWARDED TO EXAMINER			
56	07/19/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		21	46
55	07/20/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	07/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	07/13/2006	MAIL ADVISORY ACTION (PTOL - 303)			
52	07/10/2006	ADVISORY ACTION (PTOL-303)			
51	06/28/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

50	06/29/2006	DATE FORWARDED TO EXAMINER			
49	06/28/2006	AMENDMENT AFTER FINAL REJECTION			
48	04/10/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
47	03/30/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
46	03/28/2006	MAIL FINAL REJECTION (PTOL - 326)			
45	03/20/2006	FINAL REJECTION			
44	02/23/2006	DATE FORWARDED TO EXAMINER			
43	02/10/2006	RESPONSE AFTER NON-FINAL ACTION		92	41
42	02/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/10/2005	MAIL NON-FINAL REJECTION			
40	08/08/2005	NON-FINAL REJECTION			
39	08/01/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	07/11/2005	CORRESPONDENCE ADDRESS CHANGE			
37	07/12/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
36	06/16/2005	MAIL ADVISORY ACTION (PTOL - 303)			
35	06/13/2005	ADVISORY ACTION (PTOL-303)			
34	06/01/2005	DATE FORWARDED TO EXAMINER			
33	05/26/2005	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
32	05/26/2005	NOTICE OF APPEAL FILED		87	28
31	05/26/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	05/06/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
29	05/05/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
28	11/30/2004	MAIL FINAL REJECTION (PTOL - 326)			
27	11/26/2004	FINAL REJECTION			
26	11/10/2004	DATE FORWARDED TO EXAMINER			
25	11/08/2004	RESPONSE AFTER NON-FINAL ACTION		94	21
24	11/08/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/23/2004	REFERENCE CAPTURE ON IDS			
22.7	05/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

22	05/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/06/2004	MAIL NON-FINAL REJECTION	7		17
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17	12/29/2003	RESPONSE TO ELECTION / RESTRICTION FILED		62	12
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10	06/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	06/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	10/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	11/28/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/15/2001	APPLICATION DISPATCHED FROM OIPE			
5	10/15/2001	APPLICATION IS NOW COMPLETE			
4	07/02/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/29/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/08/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

Samuel H. Dworetsky
AT&T Corporation
P. O. Box 4110
Middletown, NJ 07748-4110

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OFFICE OF PETITIONS

In re Application of :
Harvey R. Bialk, et al. :
Application No. 09/851,234 : DECISION GRANTING PETITION
Filed: May 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2001-0147 :

This is a decision on the petition, filed May 22, 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 May 7, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2817 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

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Paper No. 6

Samuel H. Dworetsky
AT&T CORP.
P.O. Box 4110
Middletown NJ 07748-4110

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Bialk et al. :
Application No. 09/851,235 : DECISION GRANTING PETITION
Filed: May 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2001-0192 :

This is a decision on the petition, filed September 15, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on May 6, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the

USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 25, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2611 to await the reply to the nonfinal Office Action mailed on December 4, 2003. Failure to reply timely will again result in abandonment of the application.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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Paper No. 10

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

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MAY 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Shawn Thayer Huxel, et al. :
Application No. 09/851,257 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. ETH-1554 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action August 20, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $930.00 extension of time submitted with the petition on March 24, 2003 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3738.

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

Sherry D. Brinkley
Petitions Examiner

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OFFICE OF PETITIONS

In re Application of	:	
Johannes Petrus Verduijn et al	:	
Application No. 09/851,264	:	DECISION GRANTING PETITION
Filed: May 8, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 95MO14/3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within the one month extendable period set in the Office action of October 23, 2003. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) having been obtained, the date of abandonment of this application is November 24, 2003. A Notice of Abandonment was mailed on October 28, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of October 23, 2003 is accepted as having been unintentionally delayed.

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

The matter is being referred to Technology Center AU 1764.

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

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Yen Choo	: DECISION ON REQUEST FOR
Patent Number	: 6733970	: RECALCULATION of PATENT
Issue Date	: 05/11/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/851,271	: OF WYETH
Filed	: 05/08/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 7

SAMUEL H. DWORETSKY
AT&T CORP.
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OCT 0 7 2003

OFFICE OF PETITIONS

In re Application of
Harvey R.Bialk, et al.
Application No. 09/851,285
Filed: May 8, 2001
Attorney Docket No. 2001-0148

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

This is a decision on the petition, filed September 15, 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 May 6, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2633 for examination in due course.

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

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Paper No. 12

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SUITE 1100
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of
Badeau, et al.
Application No. 09/851,300
Filed: May 8, 2001
Attorney Docket No. 4191-00025

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 August 7, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on March 14, 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.

Applicant filed a "Request to Rescind Previous Nonpublication Request" on March 18, 2002 (Certificate of Mailing under 37 CFR 1.8 dated March 8, 2002, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1]). Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

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.

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", O.G. (July 1, 2003).

[2] See id.

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 petition fee of $1,300 has been charged to Deposit Account No. 01-2000, as authorized.

The application is being forwarded to Technology Center 1700 for consideration of the amendment filed August 25, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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Kelly Bauersfeld Lowry & Kelley, LLP
6320 Canoga Avenue
Suite 1650
Woodland Hills, CA 91367

Paper No. 11

In re Application of	:	DECISION ON PETITION
Robert B. Citron et al	:	TO WITHDRAW
Serial No. : 09/851,356	:	HOLDING OF
Filed : May 8, 2001	:	ABANDONMENT
For : Surgical Trimming Tool	:	

This is a decision on petitioner's request filed August 1, 2003, to review the holding of abandonment mailed July 23, 2003, for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed March 18, 2003. The basis for the request is that applicant did not receive the communication mailed March 18, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed August 1, 2003 includes all the above elements. Further, an inspection of the file reveals that the Office action in question was returned undelivered. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed March 18, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/1/14/04

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7049945	2006-05-23	09851362	2001-05-08	ATI-244

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	/Brian Roffe/	Date (YYYY-MM-DD)	2010-06-09
Name	Brian Roffe	Registration Number	35336

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. 7049945
Issue Date: May 23,2006
Application No. 09851362
Filed: May 8,2001
Attorney Docket No. ATI-244

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

This is a decision on the electronic petition, filed June 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 June 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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	**PAPER**
	07022005

DATE MAILED:

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

Commissioner for Patents

Request for Certificate of Correction filed on June 15, 2005, has been approved.

SPE D. Gutierrez

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/851,387

Paper No.: _____

DATE : 6/15/05

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6854881

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 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:
All changes submitted by Applicant correspond to the final set of claims allowed by the Examiner including Examiner's Amendments. C.O.

John Barlow
Supervisory Patent Examiner
Technology Center 2800

SPE **Art Unit** 2859

UNITED STATES 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

HOEKENDIJK & LYNCH
P.O. BOX 4787
BURLINGAME, CA 94011-4787

COPY MAILED

JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Michael L. Reo et al :
Application No. 09/851,400 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 020 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 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 October 9, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $465.00 extension of time submitted with the petition on May 19, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 3763.

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
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Paper No. 12

HOEKENDIJK & LYNCH
P.O. BOX 4787
BURLINGAME, CA 94011-4787

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JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Michael L. Reo et al :
Application No. 09/851,400 : ON PETITION
Filed: May 7, 2001 :
Attorney Docket No. 020 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 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 October 9, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2003.

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

The application file is being forwarded to Technology Center AU 3763.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NOKIA INC
ATTN: IAN L CARTIER
313 FAIRCHILD DR
MOUNTAIN VIEW CA 94043

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JUN 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Schohn, et al. :
Application No. 09/851,404 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 12481-004001 :

This is a decision on the petition filed on May 31, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 16, 2005, which set a shortened statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned on December 17, 2005. A Notice of Abandonment was mailed on March 31, 2006.

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).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020 extension of time fee submitted with the petition on May 31, 2006 was subsequent to the maximum period obtainable for reply (March 16, 2006), this fee will be refunded to petitioner under separate cover.

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. There is, however, 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.

The application file is being forwarded to Group Art Unit 2176 for consideration of the RCE, filed May 31, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Alston & Bird LLP
Bank of America Plaza
101 South Tryon St
Suite 4000
Charlotte NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET SUITE 4000
CHARLOTTE NC 28280-4000

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of	:	
Schohn, et al.	:	
Application No. 09/851,404	:	ON PETITION
Filed: May 8, 2001	:	
Attorney Docket No. 042933/274317	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 13, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed July 13, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on October 14, 2006. A Notice of Abandonment was mailed on March 21, 2007.

With the instant petition, applicant paid the petition fee, made a proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on March 13, 2007 was subsequent to the maximum period obtainable for reply (January 13, 2007), this fee will be refunded to petitioner under separate cover.

The matter is being forwarded to Group Art Unit 2176 for consideration of the Amendment filed March 13, 2007.

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

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Paper No. 080404

AUG 11 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
Yao-Ching Su *et al.*	:	
Serial No.: 09/851,576	:	DECISION ON REQUEST TO WITHDRAW
Filed: May 10, 2001	:	FROM RECORD
Attorney Docket No.: **ADTP0033USA**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Joshua D. Isenberg
204 Castro Lane
Fremont, CA 94539

JUL 23 2003

In re Application of	:	
Murali Chaparala	:	DECISION ON PETITION
Application No.: 09/851,587	:	TO WITHDRAW THE
Filing Date: May 8, 2001	:	HOLDING OF ABANDONMENT
Attorney Docket No.: ONX-117A	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed via facsimile transmission on June 8, 2003 and supplemented on July 17, 2003, also via facsimile transmission. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action mailed on September 11, 2002. A Notice of Abandonment was mailed on June 4, 2003.

Petitioner asserts that a response to the Office action of September 11, 2002 was timely submitted to the Patent and Trademark Office (PTO). To support this assertion, petitioner has submitted a copy of the response (an amendment and a petition for a one month extension of time) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the PTO on January 9, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on January 9, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed June 4, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on June 8, 2003 is accepted since the response originally submitted was apparently lost.

The one-month extension of time fee has not been associated with the application. Petitioner asserts that the fee was paid by way of check. To support this assertion, petitioner submitted a copy of the check with the petition and a copy of a bank statement in his facsimile transmission of July 17, 2003 indicating the cashing of the check on January 17, 2003. Although the copy of the check does not include the serial number of the application, it does include the attorney's docket number and is dated January 8, 2003. The copy of the check and bank statement is sufficient evidence to conclude that the one-month extension of time fee was paid.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for appropriate action in due course.

Edward Westin

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

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Mailed : OCT 27 2004

rc

In re Application of
Skszek et al.
Serial No.: 09/851,601
Filed : May 9, 2001
For: Fabrication of Alloy Variant Structures Using Direct Metal Deposition

DECISION ON PETITION

This is a decision on a petition filed May 22, 2003 (Certificate of Mailing, May 19, 2003) requesting examination of claims 6-10 of the instant application; while not explicitly stated, this is considered to be a petition under 37 CFR 1.144 requesting review of the examiner's restriction requirement.

In the Remand to the Examiner, mailed September 22, 2004, The Board of Patent Appeals and Interferences noted petitions related to restriction requirements are outside the Board's jurisdiction. The Director of the USPTO has delegated the authority to decide petitions regarding a final decision of an examiner required restriction to the Technology Center Directors (MPEP 1002.02(c)).

It is noted, petitions under 37 CFR 1.144 will not be considered if, as in the instant application, reconsideration of the requirement was not first requested. However, in the advisory action mailed June 13, 2003, the examiner treated the petition as a request for reconsideration and responded to the arguments presented. Therefore, the petition will be considered as both a request for reconsideration by the examiner and a petition to review the restriction requirement.

In the office action mailed March 19, 2003, the examiner held that newly submitted claims 6-10 were directed to an invention that was independent or distinct from the invention originally claimed. Specifically, the examiner asserted that the product of claims 6-10 could be made by process that does not require a step of optically monitoring the physical dimensions as is set forth in the process of claims 1-5.

The petitioner argues claims 6-10 are dependent claims that include the optical monitoring requirement and unless the examiner can prove that a different process could be used to make the tooling set forth in the product by process claims 6-10, the claims should be examined.

These arguments are not persuasive. As correctly noted by the petitioner, claims 6-10 are product-by-process claims. As indicated in MPEP 2113, "product-by-process claims are not limited to the manipulations of the recited steps, only by the structure implied by the steps". Furthermore, the PTO bears a lesser burden of proof in dealing with product-by-process claims. The examiner need only show that a prior art product appears to be the same or similar to the claimed product; burden shifts to applicant to provide evidence establishing a difference between the prior art product and the claimed product.

As indicated in the instant specification (page 3, lines 12-21), conventional laser cladding is performed using jigs. While the specification notes the use of jigs is expensive, time consuming and does not produce consistent results for articles having intricate geometries, a product resulting from this conventional process would appear to be the same or similar to the claimed product - particularly for relatively flat geometries. In other words, while the process recited in the claims may produce the article more consistently, in less time, at lower cost and with fewer rejects, the resulting product would still appear to be the same as that produced by the conventional process. The examiner presented similar rebuttals to these arguments in the advisory action mailed June 13, 2003.

The petitioner notes that if one assumes the use of "optical monitoring" represents an improvement enhancing the dimensions of the article, then the article could only be made by the process recited in the product-by-process claims. However, no evidence as been presented showing this to be true, i.e., there is no evidence on the record that the process recited in the claims results in a different product.

In view of the above discussion, having weighed both the examiner's position and the petitioner's arguments, it is concluded that, on the balance, the restriction is proper. The application will be returned to the jurisdiction of The Board of Patent Appeals and Interferences for consideration of the appeal.

The petition is **DENIED**.

JMStone

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

Gifford, Krass, Groh
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

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Paper No. 111703

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NOV 17 2003

OFFICE OF DIRECTOR
GROUP

KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1763

In re Application of)
MEDIN et al.) DECISION ON PETITION
Application No. 09/851,602)
Filed: May 9, 2001)
Attorney Docket No. 06948.105024)

This is a decision on the request to withdraw as agent of record under 37 C.F.R. § 1.36, filed September 4, 2002.

The request is APPROVED.

The request was signed by Josephine Young on her behalf.

The correspondence address of record remains unchanged.

The application file is being returned to the examiner for examination.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of
William Wine et al.
Application No. 09/851,605
Filed: May 9, 2001
Attorney Docket No. 4754-41

: ON PETITION

This is a decision on the petition filed August 22, 2006, to withdraw the holding of abandonment of the above-identified application, which is treated under 37 CFR 1.181.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on January 9, 2006, for failure to timely reply to the non-Final Office Action mailed October 6, 2005. Accordingly, a Notice of Abandonment was mailed May 3, 2006.

The non-Final Office Action set a three month period for reply. Petitioner contends that he was not made aware of the due date for the reply until after the due date had passed.

Petitioner is advised that the actions or inactions of his duly authorized and voluntarily chosen representatives is not sufficient grounds for a withdrawal of the holding of abandonment and further that the applicant is bound by the consequences of those actions or inaction.[1]

Furthermore, there is no indication however 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 copy of this decision is being mailed to petitioner as a courtesy, however, no future correspondence will be directed to the petitioner until

[1] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

such time as appropriate instructions are received to the contrary.

In view thereof, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

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

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

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

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

cc:

WILLIAM WINE
17 LYONSGATE DRIVE
TORONTO, ONTARIO M3H1C7
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUN 15 2009

OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Application of :
Deo, et al. : LETTER REGARDING PTA
Application No. 09/851,614 :
Filed: May 8, 2001 :
Atty. Dkt. No.: : CDJ-166RCE2 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed June 26, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 17, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 437 days. Applicants advise that the adjustment may extend the term of the patent by too many days

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 345 days.

A review of the record reveals that the application was properly accorded an adjustment of 737 days under 37 CFR 1.702(a)(1).

A review of the record reveals an error in two reductions accorded the application. The reduction of 19 days in connection with a reply submitted September 24, 2003 is found to be in error. The record reveals that a reply to the sequence listing Notice mailed June 5, 2003 was timely submitted July 2, 2003. The September 24, 2003 submission is a duplicate of the July 2, 2003 submission and, thus, no reduction is appropriate. The reduction of 13 days in connection with the preliminary amendment filed October 7, 2003 is also in error. While the submission is entered in the record as a "supplemental response" to the reply to the sequence listing Notice, the submission is actually a preliminary amendment.

The reductions under 37 CFR 1.704(b) of 89 days, 92 days, and 87 days were properly accorded. However, the Office neglected to assess a reduction of 94 days under 37 CFR 1.704(b) in

connection with the request for continued examination (RCE) filed January 23, 2006. The reduction commenced October 22, 2005, the day after the date that is three months after the date that the final rejection was mailed, and ended January 23, 2006, the date that the RCE was submitted. The Office further neglected to assess a reduction of 30 days under 37 CFR 1.704(c)(8) in connection with the supplemental reply (amendment) filed February 22, 2006. The reduction commenced January 24, 2006, the day after the date that the initial reply was filed, and ended February 22, 2006, the date that the supplemental reply (amendment) was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 345 days (adjustment totalling 737 days less reductions totalling 392 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 6/14/2009

PALM INTRANET

Time: 11:16:09

PTA Calculations for Application: 09/851614			
Application Filing Date:	05/08/2001	PTO Delay (PTO):	737
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	300
Post-Issue Petitions:	0	Total PTA (days):	345
PTO Delay Adjustment:	-92		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
112	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
111	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
110	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	13		
109	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	19		
99	04/17/2008	MAIL NOTICE OF ALLOWANCE			
98	04/14/2008	ISSUE REVISION COMPLETED			
97	04/14/2008	DOCUMENT VERIFICATION			
96	04/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
95	04/14/2008	NOTICE OF ALLOWABILITY			
94	02/13/2008	DATE FORWARDED TO EXAMINER			
93	01/23/2008	RESPONSE AFTER NON-FINAL ACTION			
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91	01/03/2008	NON-FINAL REJECTION			
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71	04/05/2007	DATE FORWARDED TO EXAMINER			
70	03/27/2007	AMENDMENT AFTER FINAL REJECTION			
69	01/03/2007	MAIL FINAL REJECTION (PTOL - 326)			
68	12/22/2006	FINAL REJECTION			
67	09/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	09/29/2006	REFERENCE CAPTURE ON IDS			
65.7	09/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	62
65	09/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	09/29/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
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19	07/13/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
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17	10/08/2003	DATE FORWARDED TO EXAMINER			
16	10/07/2003	SUPPLEMENTAL RESPONSE		13	14
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12	06/05/2003	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
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10	02/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/15/2001	CASE DOCKETED TO EXAMINER IN GAU			
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7	11/05/2001	APPLICATION IS NOW COMPLETE			
6	07/18/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	07/18/2001	CORRESPONDENCE ADDRESS CHANGE			
4	06/11/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	05/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/08/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/08/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LaHive & Cockfield, LLP
Floor 30, Suite 3000
One Post Office Square
Boston, Massachusetts 02109

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In re Patent No. 7,563,876	:
Deo et al.	: DECISION UPON REMAND AND
Issue Date: July 21, 2009	: RECONSIDERATION OF
Application No. 09/851,614	: PATENT TERM ADJUSTMENT
Filed: May 8, 2001	: AND NOTICE OF INTENT
Attorney Docket No. CDJ-166RCE2	: TO ISSUE CERTIFICATE OF
Title: Human Monoclonal	: CORRECTION
Antibodies to Dendritic Cells	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by One Thousand one hundred and seventy (1170) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by One Thousand one Hundred and seventy (1170) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,876 B2

DATED : **July 21, 2009** **DRAFT**

INVENTOR(S) : Deo 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 613 days

Delete the phrase "by 613 days" and insert – by 1170 days--

Day : Wednesday

PALM INTRANET

Date: 3/17/2010
Time: 13:27:44

PTA Calculations for Application: 09/851614			
Application Filing Date:	05/08/2001	PTO Delay (PTO):	1005
Issue Date of Patent:	07/21/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	300
Post-Issue Petitions:	0	Total PTA (days):	1170
PTO Delay Adjustment:	465		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
126	03/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	557		
118.5	07/01/2009	PTA 36 MONTHS			
118	07/21/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	268		103
117	06/25/2009	EXPORT TO FINAL DATA CAPTURE			
116	06/24/2009	DISPATCH TO FDC			
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114	06/15/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
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110	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
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109	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
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108	07/15/2008	EXPORT TO FINAL DATA CAPTURE			
107	06/26/2008	PETITION ENTERED			
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105	07/10/2008	DISPATCH TO FDC			

104	07/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
103	06/26/2008	ISSUE FEE PAYMENT VERIFIED			
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EXPLANATION OF PTA CALCULATION

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PO BOX 37428
RALEIGH NC 27627

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Dayong Chen
Application No. 09/851,621
Filed: May 9, 2001
For: COMMUNICATIONS METHODS, APPARATUS, COMPUTER PROGRAM PRODUCTS AND DATA STRUCTURES USING SEGMENT SEQUENCE NUMBERS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent(s)/attorney(s) of record received on February 13, 2004.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20792, listed in the request for withdraw are withdrawn.

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

The file is being returned to TC 2600 Central Files to await an examination in appropriate turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

Cc: John Han
Associate General Counsel – Intellectual Property
Ericsson Inc.
MS/EVW2-C-2
6300 Legacy Drive
Plano, Texas 75024

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Ejaz Haq :
Application No. 09/851,622 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 44176.00033 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 19, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 20, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $930 extension of time submitted with the petition on April 8, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center 2800 for further processing.

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

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EDWIN H. TAYLOR
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

In re Application of :
Rajasekhar Sistla :
Application No. 09/851,625 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 42390.P10212 :

This is a decision in response to the petition, filed August 21, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed February 9, 2006. This decision precedes the mailing of a Notice of Abandonment. On August 21, 2006, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

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 $1500.00; and (3) the requisite statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted August 21, 2006 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., May 10, 2006. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 2162 for consideration of the amendment filed August 21, 2006.

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

/Sherry D. Brinkley/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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EVA LANA
3201 OXFORD AVENUE #2
BRONX NY 10463

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OFFICE OF PETITIONS

In re Application of :
Lana, Eva :
Application No. 09/851,636 : ON PETITION
Filed: May 8, 2001 :
Title: Mindmatch: Method and System for :
Mass Customization of Test Preparation

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 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 Notice to File Corrected Application Papers (Notice) mailed July 9, 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 10, 2001. A Notice of Abandonment was mailed on February 2, 2004.

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

This matter is being referred to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 3

COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Neil Latarche et al
Application No. 09/851,640
Filed: May 8, 2001
Attorney Docket No. VRTY-001/00US

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 2100.

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
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CONNOLLY BOVE LODGE & HUTZ,LLP
PO BOX 2207
WILMINGTON DE 19899

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JUL 18 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Gerhard Erker et al :
Application No. 09/851,643 :
Filed: May 8, 2001 :
Attorney Docket No. HOE 94/F 160C (5591*406) :

This is a decision on the petition, filed July 16, 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 2, 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 1621 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

QUALCOMM INCORPORATED
ATTN: PATENT DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

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JUL 29 2003

OFFICE OF PETITIONS

In re Application of	:	
Ephraim Zehavi et al	:	
Application No. 09/851,655	:	ON PETITION
Filed: May 8, 2001	:	
Attorney Docket No. QCPA181ACAC	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

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.

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 $930.00 extension of time submitted with the petition on July 21, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 2665.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No.

KLARQUIST SPARKMAN CAMPBELL LEIGH
AND WHINSTON, LLP
121 SW SALMON STREET, SUITE 1600
PORTLAND, OR 79204-2988

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FEB 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Douglas Charles Elliott :
Application No. 09/851,678 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 23-56420 :

This is a decision on the petition, filed February 5, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 21, 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 Irvin Dingle at (703) 306-5684.

Upon receipt of the file in the Office of Petitions, 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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR 21 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of:
John Baker, et al.
Application No. 09/851,681
Filed: May 8, 2001
For: APPARATUS AND SYSTEM TO PROVIDE WIRELESS DATA SERVICES THROUGH A WIRELESS ACCESS INTEGRATED NODE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on November 15, 2004.

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

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

All of the attorneys/agents listed in the request have been withdrawn.

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
Special Program Examiner
Technology Center 2600
Communications
(571) 272-1986

cc: David M. O'Dell
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas P. Lewandowski
One Cascade Plaza
Akron OH 44308-1136

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of
Shiveley
Application No. 09/851,720
Filed: May 9, 2001
Docket No.: 0188.0009

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2004, seeking revival of th3e above-identifed application.

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

This application became abandoned for failure to reply to the office action mailed December 5, 2003, to the above-noted correspondence address of record and which set an extendible period for reply of one month. As no extensions of time were obtained, this application became abandoned at midnight on January 5, 2004. The date of abandonment is January 6, 2004. A Notice of Abandonment was mailed October 5, 2004, to the above address, and was returned as undeliverable October 18, 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 (3) above.

As to item 3, the statement of unintentional delay should be made by someone associated with the application at the time of abandonment. As background, the declaration/power of attorney filed with this application appointed only Roger D.

Emerson as attorney of record, and directed that all correspondence was to be mailed to a Mr. Thomas P. Lewandowski at the address noted above. The declaration did not also indicate any registration number for Mr. Lewandowski. Perusal of the entire record contents of this file fails to reveal that either the inventor or Mr. Emerson has, over his signature, appointed any other counsel or changed the correspondence address. Accordingly, this communication will be addressed to the correspondence address of record, obsolete or otherwise.

Counsel Deron Cook asserts that a change of address was filed on or about June 28, 2004, and includes a copy thereof as Exhibit A, but notes that such was apparently not given any force and effect by the USPTO. Inspection of the copy of Exhibit A reveals that such was a customer number batch update that sought to associate number 26781, several registered practitioners (including Mr. Emerson and also Mr. Cook), and a new correspondence address, with this application. However, such was signed by a Mr. Daniel Thomson, who unfortunately was not of record as noted above and as such the customer number could not be associated with this file and the address (and registered practitioners) properly remained unchanged. See MPEP 601.03:

> Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71.

For the same reason, the change of correspondence address signed by Mr. Cook and filed November 19, 2004, cannot be given any force and effect, though as a courtesy, and as Mr. Emerson is, according to the registry of practitioners, reachable at the address therein given for customer No. 27,681, a courtesy copy of this decision is being mailed to that address.

It is anticipated that with an appropriately signed statement of unintentional delay a renewed petition would be granted.

Any forthcoming renewed petition should be addressed as follows:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

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

cc:
Mr. Roger D. Emerson
BROUSE MCDOWELL
388 SOUTH MAIN STREET
SUITE 500
AKRON, OH 44311-4407

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ROGER D. EMERSON
BROUSE McDOWELL
A LEGAL PROFESSIONAL ASSOCIATION
388 SOUTH MAIN STREET
SUITE # 500
AKRON, OHIO 44311-4407

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
James Thomas Shively :
Application No. 09/851,720 :
Filed: May 9, 2001 :
Attorney Docket No. 30188.30008 :

DECISION ON RENEWED
PETITION UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR §1.137(b), filed May 26, 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 one month shortened statutory period set in the non-final Office Action mailed December 5, 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 January 6, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (election) and (2) the petition fee of $1370.00 (for a large entity) have been received. 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. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition. Accordingly, the reply to the non-final Office Action mailed December 5, 2003 is accepted as having been unintentionally delayed.

The declaration filed May 25, 2005 with the petition was not required for revival of the application. The petition fee of $1370.00 was paid with petition filed November 19, 2004. The $1500.00 fee charged for the petition filed May 26, 2005 has been refunded to Deposit Account No. 50-1210.

While the transmittal form indicates small entity, such status has not been awarded because the required statement has not been filed with the application, as described in MPEP 509.02 and 509.03.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 1762 for appropriate action on the concurrently filed reply.

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
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Brouse McDowell
A Legal Professional Association
388 South Mian Street
Suite 500
Akron OH 44311-4407

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Shiveley :
Application No. 09/851,720 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. 30188.30008 :

This is a decision on the petition under 37 CFR 1.181, filed September 4, 2007(certificate of mailing date August 31, 2007), requesting that the Office withdraw the holding of abandonment of the above-identified application. In the alternative, petitioner requests revival under the unintentional delay standard of 37 CFR 1.137(b).

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

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

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 7, 2006, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) and a RCE and amendment were filed on January 11, 2007 (certificate of mailing date January 8, 2007). On January 31, 2007, a Notice of Non-Compliant Amendment was was mailed. The January 31, 2007 Notice explained that the amendment filed on January 11, 2007 was non-compliant because the listing of claims did not include the text of all pending claims (including withdrawn claims). Accordingly, the application became abandoned on January 8, 2007, as no new time period was set by the mailing of the January 31, 2007 Notice.

Petitioner argues that because the response to the July 7, 2006 final Office action as filed is fully responsive in every substantive respect, that the holding of abandonment should be withdrawn.

Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE with appropriate submission.

Petitioner's RCE and submission, filed on the very last possible date for timely response, were not acceptable. Petitioner waited until the end of the extendable period to respond and that left no room for correction of errors, whether substantive or procedural.

The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113. The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. Petitioner did not file an acceptable response to the final Office action.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **dismissed**. No petition fee has been or will be charged in connection with this petition.

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

Petitioner has provided an entire corrected amendment and RCE as his reply.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Regarding fees, pursuant to petitioner's authorization, deposit account no. 50-1210 will be charged the required $750.00 petition fee. The duplicate RCE fee of $395.00 and the second extension of time fee of $510.00 will be refunded to the same deposit account. These fees were filed on September 4, 2007 (certificate of mailing date August 31, 2007). Petitioner is reminded that it is not possible to obtain an extension of time beyond the expiration of the maximum extendable period for reply. 37 CFR 1.136(a).

After the mailing of this decision, the application will be returned to Technology Center A.U. 3749 for continued examination.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior 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
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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Timothy M. Dubois	: DECISION ON REQUEST FOR
Patent Number	: 7657451	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/851,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Timothy M. Dubois
Patent Number : 7657451
Issue Date : 02/02/2010
Application No: 09/851,732
Filed : 05/08/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DEC 27 2001

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 5

Randall C. Brown
Akin, Gump, Strauss, Hauer & Feld LLP
P.O. Box 688
Dallas, Texas 75313

In re Application of: William Akers et al.
Application No. 09/851,745
Filed: May 9, 2001
For: SYSTEM AND METHOD FOR ELECTRONICAL MEDICAL FILES MANAGEMENT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed August 22, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, ...

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status

of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that there is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c). The submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter is patentable over the references***.

Accordingly, the Petition is **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

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
WASHINGTON, D.C. 20231
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JAN 1 8 2002

Paper No. 7

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Randall C. Brown
Akin, Gump, Strauss, Hauer & Feld LLP
P.O. Box 688
Dallas, Texas 75313

In re Application of: William Akers et al.
Application No. 09/851,745
Filed: May 9, 2001
For: SYSTEM AND METHOD FOR ELECTRONICAL MEDICAL FILES MANAGEMENT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the request for reconsideration, filed January 17, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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.

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, California 95113

MAILED

MAY 0 9 2002

Technology Center 2100

In re Application of: Rajeev Sethia et al.)
Application No. 09/851,757)
Filed: May 8, 2001) DECISION ON REQUEST FOR
For: KEYPAD DEVICE SECURITY) WITHDRAWAL AS ATTORNEY
SYSTEM AND METHOD)

This is a decision on the Request To Withdraw from Representation filed February 12, 2002.

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

The request 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: PHILIPS ELECTRONICS
NORTH AMERICAN CORPORATION
508 White Plains Road
Tarrytown, New York 10591-5190

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Christoper A. Rygaard :
Application No. 09/851,763 :
Filed: May 8, 2001 :
Attorney Docket No. 1010722-991110 :

ON PETITION

This is a decision on the petition, filed January 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2134 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No.11

JAMES B. BIEBER, PATENT COUNSEL
DENTSPLY INTERNATIONAL INC.
570 WEST COLLEGE AVENUE
YORK, PA 17404

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of
David C. Hamilton
Application No. 09/851,819
Filed: May 9, 2001
Attorney Docket No. GAC-1972 DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed January 24, 2003, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained and received by the USPTO on June 24, 2003.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 24, 2003 of 1. Certificate of Mailing (1 page); 2. Extension of Time Request (1 page); 3. Amendment (8 pages); 4. Power of Attorney (1 page); 5. Revocation of Power of Attorney (1 page). Additionally, petitioner has supplied a copy of the previously mailed correspondence.

Although the extension of time was received, the reply and the power of attorney acknowledged as having been received in the USPTO on June 24, 2003 are not of record in the application file and cannot be located. However, MPEP 503 states that "A post card 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 reply was timely received in the USPTO but was apparently lost after receipt thereof.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Therefore, the petition fee of $1,330.00 is being credited to petitioner's Deposit Account No. 04-0780.

The Office sincerely apologies for the inconvenience caused petitioner in this matter.
Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3732.

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

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OFFICE OF PETITIONS

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

In re Application of
Stephen A. Canterbury
Application No. 09/851,825
Filed: May 9, 2001
Attorney Docket No. 1842.103US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 31, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 27, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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)
6638712	2003-10-28	09851847	2001-05-09	601-1-077

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	/Barbara V Maurer/	Date (YYYY-MM-DD)	2007-12-20
Name	Barbara V. Maurer	Registration Number	31278

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6638712
Issue Date: October 28,2003
Application No. 09851847
Filed: May 9,2001
Attorney Docket No. 601-1-077DIV

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

This is a decision on the electronic petition, filed December 20,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 20,2007. 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

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Washington, D.C. 20231
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Paper No. 8

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

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Andrew C. Gilbert et al :
Application No. 09/851,848 : DECISION GRANTING PETITION
Filed: May 9, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 3624 :

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 May 8, 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

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OFFICE OF PETITIONS

KENNETH C. BROOKS
P.O. BOX 10417
AUSTIN TX 78766-1417

In re Application of :
Robert Jr. Mays :
Application No. 09/851,856 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. MYS-01-02109 :

This is a decision on the petition, filed September 29, 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 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2633 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of :
Yasushi Kubota et al :
Application No. 09/851,885 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. 70904-55845 :

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

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on June 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of :
Yasushi Kubota et al :
Application No. 09/851,885 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. 70904-55845

This is a decision on the petition filed, November 8, 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 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Yasushi Kubota et al :
Application No. 09/851,885 : DECISION GRANTING PETITION
Filed: May 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 70904-55845 :

This is a decision on the petition, filed July 5, 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 April 3, 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 2629 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\july10\851885.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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper #4

Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW., Suite 600
Washington, D.C. 20036-5339

MAIL

JUN 26 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
DAVID E. BARAFF, ET AL :
Serial No.: 09/851,940 :
Filed: May 10, 2001 : DECISION ON PETITION
For: GLOBAL INTERSECTION ANALYSIS FOR : *ACCEPTANCE OF COLOR PHOTOGRAPHS*
DETERMINING INTESECTIONS OF :
OBJECTS IN COMPUTER ANIMATION :

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed, May 10, 2001, requesting acceptance of color photographs.

The petition requests that the color photographs identified in Figures 1-6, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color photographs in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is GRANTED.

The application file is being forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

COPY MAILED

SEP 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Baraff et al.	:	DECISION ON APPLICATION
Application No. 09/851,940	:	FOR PATENT TERM ADJUSTMENT
Filed: May 10, 2001	:	
Attorney Docket No. 022972-00008	:	
	:	

This is in response to the "Application for Patent Term Adjustment Correction" filed March 17, 2005. Applicants request that the Patent Term Adjustment indicated in the Notice of Allowance be corrected from two hundred and fourteen (214) days to three hundred and fifteen days (315) days.

The application for patent term adjustment is **GRANTED**. For the reasons stated herein, the initial determination of patent term adjustment should be greater than requested by applicants.

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 **three hundred and eighty-nine (389) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 16, 2004 the Notice of Allowance was mailed, with a Patent Term Adjustment of two hundred and fourteen (214) days. In response, the applicants timely filed the instant petition[1]. Applicants assert that there should not have been a reduction of one hundred and one (101) days for the filing of the "Response after Non-Final Action" entered on January 30, 2004 because it

[1] PALM records indicate that the issue fee payment was received on March 18, 2005

was faxed by the applicants and received by the Office on October 21, 2003, within three months of the date of the Office Action.

The request to correct the delay of one hundred and one (101) days associated with the filing of the aforementioned Response is granted. The Office records indicate that in reply to the Non-Final Rejection mailed by the Office on July 21, 2003, the applicants filed the Response on October 21, 2003. This was within the three-month period set forth in § 1.704(b), and thus, no reduction is warranted for applicant delay.

Subsequently, on January 30, 2004, the applicants re-faxed the Response. However, the applicants assert that re-submission was requested by the Examiner on January 29, 2004. This assertion is corroborated by a written statement filed on January 30, 2004. Therefore, the one hundred and one (101) day reduction is not warranted and is corrected to zero (0) days.

In addition, applicants are entitled to a seventy-four (74) day period of adjustment due to the Office delay in mailing of a Final Rejection. Since the applicants filed the Response to the Non-Final Action on October 21, 2003, the Office was obligated to reply within four months of that date under 37 C.F.R. § 1.702(a)(2). However, the Office mailed the Final Rejection on May 5, 2004, four months and 74 days after receipt of the response. Due to the Office delay, a period of adjustment of seventy-four (74) days is entered.

In view of the above, the correct determination of the Patent Term Adjustment after mailing of the Notice of Allowance is three hundred and eighty-nine (389) days.

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

The application is being forwarded to the Publishing Division for processing into a patent.

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

Kery A. Fries

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

Enclosure: Copy of UPDATED Pair Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060622

DATE : June 22, 2006

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 6970171

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

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

Comments:

SPE: Michael Razavi **Art Unit** 2628

SPE Chauhan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/851,940 Patent No.: 6970171

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **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

JJGJr: 03-06

Paper No: 8

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

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Okubo, et al.	:	
Application No. 09/851,946	:	NOTICE
Filed: 10 May, 2001	:	
Patent No. 6,853,208	:	
Issue Date 8 February, 2005	:	
Attorney Docket No. 010609	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 5 December, 2005

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 C.F.R. §1.28 hereby is **ACCEPTED**

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

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

OCT 10 2006

October 10, 2006

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington DC 20037

In re Application of:	:	
UMEMOTO, Seiji et al.	:	DECISION ON PETITION
Application No. 09/851,970	:	UNDER 37 CFR 1.144
Filed: May 10, 2001	:	
Attorney Docket No. Q64435	:	

This is a decision on the Petition filed on January 24, 2006 requesting (1) withdrawal of the Election of Species requirement issued in the September 7, 2005 Office action and (2) the issuance of a new Office action examining claims 21-40. The petition was timely filed within two months of the mailing of the Advisory Action dated December 21, 2005, which action constitutes that from which "relief is being requested" as in accordance and compliance with 37 CFR 1.181(f).

The Petition is hereby **GRANTED**.

For essentially the reasons advanced by petitioner on pages 5-7 of the petition, the examiner's reasons presented in the Final rejection dated September 7, 2005 for holding claims 21-44 of the Amendment filed June 27, 2005 as being drawn to alternate species of the invention as compared with the specie originally presented in claim 1, to be in error. Consequently, the Office action set forth in the Final rejection dated September 7, 2005 is vacated and a new Office action will be forthcoming. Accordingly, an appeal brief is not necessary.

Telephone inquires should be directed to Frank G. Font, Supervisory Patent Examiner, at (571) 272-2415.

Janice A. Falcone

Janice A. Falcone, 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
OPV 04-02

Paper No. 7

SHANKS & HERBERT
TRANSPOTOMAC PLAZA
1033 N. FAIRFAX STREET, SUITE 306
ALEXANDRIA VA 22314

COPY MAILED

MAY 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Toui et al.	:	DECISION DISMISSING
Application No. 09/851,983	:	PETITION
Filed: 10 May, 2001	:	
Attorney Docket No. 0261-0008	:	

This is a decision on the petition filed by facsimile on 11 March, 2002, requesting that the above-identified application be accorded a filing date of 9 May, 2001, rather than the presently-accorded filing date of 10 May, 2001.

Petitioners assert that the application was filed by courier at the USPTO Customer Service window on 9 May, 2001, but that the courier was not given a stamped itemized postcard upon depositing the application with the USPTO. Petitioners also assert that a date-stamped return receipt postcard was never received in the mail from the USPTO. The petition is accompanied by a declaration of petitioner's registered patent counsel, Joseph G. Contrera, stating that the application was deposited with the courier on 9 May, 2001.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. a review of the papers originally filed reveals that no pages of specification or sheets of drawings were filed on 9 May, 2001. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes the drawings were among the papers he included in the application is not more persuasive than the actual papers shown to have been received by the official file.

At the outset, it is unclear why, if an itemized postcard was present at the time the application was filed, the courier did not obtain a USPTO "Office date" stamp on the itemized postcard receipt at the time the courier deposited the application with the USPTO. The showing of record suggests that the courier did not request that receipt of the application papers be acknowledged on the itemized postcard receipt prior to leaving the customer service window. Additionally, while the failure of petitioners to receive an itemized return receipt postcard is an unfortunate situation, petitioners have presented no evidence that the application was deposited on 9 May, 2001, rather than 10 May, 2001.

Furthermore, counsel's declaration of facts was filed nearly 10 months after the asserted date of deposit and recites personal rememberences of the preparation and filing of these papers. The papers are not unusual, and it is not understood why the filing of this particular application would stand out in such detail in the declarant's memory, particularly in view of the fact that declarant prepared and mailed similar papers on a routine basis. Lastly, the declaration of facts states only that the application papers were given to the courier, not that they were actually filed in the USPTO or deposited with the USPS.

Had petitioners mailed the application papers by USPS Express Mail Post Office To Addressee service of the USPS, petitioners could have sought relief from their predicament under the provisions of 37 CFR 1.10(e), by *promptly* providing a copy of the patent-related documents, having affixed thereon the Express Mail label number, as well as a copy of the Express Mail mailing label showing a USPS "date-in" receipt date, and would have obtained as a filing date for any non-received correspondence the "date-in" given by the USPS on the Express Mail mailing label.

As petitioners have not shown that the application was deposited on 9 May, 2001, the petition will be **dismissed**.

Petitioners submitted a check for $200.00 for the petition fee which is excess of the petition fee of $130.00. The $70.00 overpayment will be credited to counsel's deposit account, No. 50-0622, as authorized in the Information Disclosure Statement filed on 5 March, 2002.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently-accorded filing date of 10 May, 2001.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090908

DATE : September 08, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,230,904

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:

Examiner: /Kim-Kwok CHU/

APPROVED: /KC/ (09/08/2009)

APPROVED: /KC/ (09/08/2009)

IAP97
OCT 31 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No. 1349.1024

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Soo han PARK

Application No.: 09/852,002

Confirmation No.: 4122

Filed: May 10, 2001

U.S. Patent No.: 7,230,904

Issued: June 12, 2007

For: COMPATIBLE OPTICAL DISK PLAYER AND DATA RECORDING AND REPRODUCING METHOD

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

Certificate
NOV 0 2 2007
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee respectfully requests that a Certificate of Correction be issued in the subject patent, pursuant to 35 USC § 254 and 37 CFR § 1.322, to correct the errors shown on the attached Form PTO-1050. A check in the amount of $100 to cover the cost of the Certificate is attached.

One or more of the errors shown on the attached Form PTO-1050 is or are within the responsibility of the undersigned; each thereof is of a clerical or typographical nature or of minor character and occurred in good faith, and the correction thereof is consistent with the prosecution record.

Respectfully submitted,

STAAS & HALSEY LLP

11/01/2007 SZEWDIE1 00000085 7230904
01 FC:1811 100.00 OP

Date: Oct. 31, 2007

By: _____
Gene M. Garner, II
Registration No. 34,172

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

~~11/01/2007 SZEWDIE1~~
11/01/2007 SZEWDIE1 00000004
01 FC:1811
~~11/01/2007 SZEWDIE1~~
~~01 FC:1811~~

NOV 2 2007

APPROVED: /KC/ (09/08/2009)

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,230,904

DATED : June 12, 2007

INVENTOR(S) : Soo han PARK

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

Front Page, Column 2 (Abstract), change

"A simulation device for simulating an operation of a system constituted by a plurality of machines. An operation program is executed by an arithmetic processing unit in a controller of a machine or by an information processing device having a function of analyzing the operation program equivalent to the controller of the machine, to obtain operation command data for the machine. The obtained operation command data of the machine with lapsing time information are received by the simulation device and stored as historical data. Operation programs of all of the machines constituting the system are executed to obtain historical data of operations of the machines, which are united by arranging the data in time series from a start of simultaneous operations of the machines based on the lapsing time information. Images of three-dimensional models of the machines are displayed by animation based on the united historical data."

to

--A compatible optical disk player and data recording and/or reproducing method includes a laser beam source including a first laser diode and a second laser diode, where the first laser diode emits a first laser beam of a first wavelength for recording and/or reproducing the data on/from a first optical disk including a first recording density, and the second laser diode emits a second laser beam of a second wavelength for recording and/or reproducing the data on/from a second optical disk including a second recording density. A diffraction grating selectively splits the first and the second laser beams into a main ray and two sub-rays depending on which optical disk is to be accessed. A photo-detector selectively receives the three rays of the first laser beam and the three rays of the second laser beam at different detecting portions for the data recording and/or reproducing and error detection and compensation.--.

Column 8, Line 38, change "sub rays" to --sub-rays--.

Column 11, Line 11, before "recording" delete "file".

Column 12, Line 59, after "portions" delete "of".

Column 14, Line 15, after "portions;" insert –and--.

Column 15, Line 51, change "disk.;" to --disk;--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,230,904

No. of add'l copies
@ 304 per page

⇒

NOV 2 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DITTHAVONG & CARLSON, P.C.
SUITE A
10507 BRADDOCK RD.
FAIRFAX VA 22032

COPY MAILED

MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Mahesh Girkar et al :
Application No. 09/852,008 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 50277-1003 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the amendment, filed on March 6, 2008, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Chadwick Jackson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Jackson desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Jackson, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

---

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

This matter is being referred to Technology Center Art Unit 2168 for processing of the request for continued examination under 37 CFR 1.114 filed March 6, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BINGHAM MCCUTCHEN LLP
2020 K STREET N.W.
WASHINGTON DC 20006-1806

UNITED STATES 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 USPTO
MAR 17 2008
PATENT & TRADEMARK OFFICE

DITTHAVONG & CARLSON, P.C.
SUITE A
10507 BRADDOCK RD.
FAIRFAX VA 22032

COPY MAILED

MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Mahesh Girkar et al :
Application No. 09/852,008 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 50277-1003 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the amendment, filed on March 6, 2008, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Chadwick Jackson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Jackson desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Jackson, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

---

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

This matter is being referred to Technology Center Art Unit 2168 for processing of the request for continued examination under 37 CFR 1.114 filed March 6, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BINGHAM MCCUTCHEN LLP
2020 K STREET N.W.
WASHINGTON DC 20006-1806

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/852,008

DATE : 3-3-10 Paper No.: _____

TO SPE OF : ART UNIT 2168

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/852,008 Patent No.: 7464113

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

FOR IFW FILES: Should COC be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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: _____

TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2168
Art Unit

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5/20/05 Paper No.: 20060802

TO : Supervisor, Art Unit 1636

SUBJECT : Certificate of Correction Request in Patent No.: 09/852,017 6,576,234

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

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

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

G. R. Ewoldt

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☐ YES ☑ NO

☑ Comments: The requested changes would result in a change of scope to the claims.

Supervisor 1636 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, N.W.
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

MAY 03 2004

OFFICE OF PETITIONS

In re Application of :
Guoping Zhang :
Application No. 09/852,033 : DECISION ON PETITION
Filed: May 10, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12126 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/203,326, filed May 11, 2000.

The petition is **Granted.**

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on May 10, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/203,326, which was filed on May 11, 2000, for which priority is claimed. A reference to the prior-filed provisional application has been included in an Application Data Sheet.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/203,326 is granted.

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

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

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

The examiner of Technology Center AU 2859 will consider the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/203,326, filed May 11, 2000.

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Zhang, Guoping	:	
Application No. 09/852,033	:	ON PETITION
Filed: May 10, 2001	:	
Attorney Docket No. 031884-1000	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 10, 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 December 10, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on June 11, 2004. A Notice of Abandonment was mailed September 17, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time fee submitted with the petition on September 10, 2004 was subsequent to the maximum extendable period for reply, it is unnecessary and it will not be collected from petitioner's deposit account.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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SEP - 5 2008

STEVEN M. GREENBERG, ESQ.
CAREY, RODRIGUEZ, GREENBERG & PAUL LLP
950 PENINSULA CORPORATE CIRCLE
SUITE 3020
BOCA RATON FL 33487

Applicant: Thomas R. Firman
Application No.: 09/852,049
Filed: May 9, 2001
Title: VOICE CONTROLLED COMPUTER INTERFACE
Attorney's Docket No.: 1026-005U

: DECISION
: DISMISSING
: PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. §1.183 TO PERMIT SUBMISSION OF A COMPUTER LISTING IN ADOBE PORTABLE DOCUMENT FORMAT," filed December 14, 2005 (the "petition"), seeking suspension of 37 CFR 1.96(c)(2) to submit a computer listing on compact disc in Adobe Portable Document Format (PDF) rather than in ASCII text format.

The petition fee of $400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183 will be charged to Deposit Account No. 06-1050, as authorized in the transmittal letter that accompanied the petition.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.52(e)(3)(i) states:

> Each compact disc must conform to the International Standards Organization (ISO) 9660 standard, and the contents of each compact disc must be in compliance with the American Standard Code for Information Interchange (ASCII). CD-R discs must be finalized so that they are closed to further writing to the CD-R.

37 CFR 1.96(c)(2) states:

> The "computer program listing appendix" must be submitted on a compact disc that complies with § 1.52(e) and the following specifications (no other format shall be allowed):
>
> (i) Computer Compatibility: IBM PC/XT/AT, or compatibles, or Apple Macintosh;
>
> (ii) Operating System Compatibility: MS-DOS, MS-Windows, Unix, or Macintosh;

(iii) Line Terminator: ASCII Carriage Return plus ASCII Line Feed;

(iv) Control Codes: the data must not be dependent on control characters or codes which are not defined in the ASCII character set; and

(v) Compression: uncompressed data.

37 CFR 1.183 states:

> 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).

The instant petition has been fully considered. 37 CFR 1.52(e) provides that computer program listings may be submitted to the Office on compact disc, the contents of which must be in ASCII format. Accordingly, petitioner seeks waiver of 37 CFR 1.52(e) as petitioner requests entry of a computer program listing on compact disc, the contents of which are in PDF format and not ASCII format.

The provisions of 37 CFR 1.52(e) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule. In support of his petition for waiver of the rule, petitioner notes that the computer program listing was originally submitted to the Office on microfiche in a parent application on June 23, 1989, and that petitioner is not in possession of an electronic version of the computer program.[1] Petitioner further notes, "Although in theory it would be possible to reconstruct an ASCII text file from a paper version of the microfiche, doing so would be unreasonably costly and, in any case, would inevitably include errors."[2]

As set forth in *Changes To Implement the Patent Business Goals*, 65 FR 54604, 54620 (Sept. 8, 2000) (final rule), any compact disc (CD-ROM or CD-R) containing a computer listing must meet the requirements of 37 CFR 1.52(e) or it will not be accepted by the Office. Specifically, the compact disc must meet the ISO 9660 format standards with ASCII data files as this is the only acceptable archival electronic media for submissions of computer listings on compact disc. If the Office were to waive the provisions of 37 CFR 1.52(e) as requested, the Office would need to perform the "reconstruction" identified in the petition.

Accuracy of the patent application's file should be paramount when determining who is better positioned to perform the reconstruction identified in the petition. Clearly, applicant has greater knowledge of the information contained in the computer listing, is better able to address issues that may arise during the construction of the ASCII text file, and is better able to ensure the accuracy of the computer listing after the ASCII text file is created. Therefore, applicant is

[1] *See* petition at page 1, paragraphs 1-3.
[2] *See* petition at page 1, paragraph 3.

better positioned to create the required electronic version of the computer listing in question that complies with 37 CFR 1.52(e).

For the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.52(e), and the petition is dismissed.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 2600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.

Brian E. Hanlon

Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Sector/#

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/852,058	05/09/2001	Philip Morrison Giffard	DIAT:002

Adjustment date: 04/01/2002 EEKUBAY1
08/16/2001 SDIRETA1 00000004 09852058
01 FC:101 -710.00 OP
03 FC:102 -880.00 OP
04 FC:104 -270.00 OP
05 FC:105 -130.00 OP

O'KEEFE, EGAN & PETERMAN, L.L.P.
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, TX 78746

OIPE JC20 AUG 13 2001 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 3768

FORMALITIES LETTER

OC000000006159452

Repln. Ref: 04/01/2002 EEKUBAY1 0011111400
DA#:101205 Name/Number:09852058
FC: 704 $995.00 CR

04/01/2002 EEKUBAY1 00000006 09852058

01 FC:201 355.00 OP
02 FC:202 440.00 OP
03 FC:204 135.00 OP
04 FC:205 [illegible] OP

Date Mailed: 06/07/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

08/16/2001 SDIRETA1 00000004 09852058

01 FC:101 710.00 DP
02 FC:102 288.00 DP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Repln. Ref: 12/10/2001 YGIZAW 0014001200
DA#:101205 Name/Number:09852058
FC: 704 $54.00 CR

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).

12/10/2001 YGIZAW 00000007 09852058

01 FC:103 234.00 OP

- 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 $1384.
  - **$234** for **13** total claims over 20.
  - **$880** for **11** independent claims over 3 .
  - **$270** for multiple dependent claim surcharge.

08/16/2001 SDIRETA1 00000004 09852058
01 FC:101 710.00 OP
03 FC:102 288.00 OP
04 FC:104 880.00 OP
05 FC:105 270.00 OP
130.00 OP

- 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 $ 2224.**

04/12/2002 YGIZAW 00000009 09852058
01 FC:203 117.00 OP

- 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

Repln. Ref: 04/12/2002 YGIZAW 0008590900
DA#:101205 Name/Number:09852058
FC: 704 $117.00 CR

Adjustment date: 12/10/2001 YGIZAW
08/16/2001 SDIRETA1 00000004 09852058
02 FC:103 -288.00 OP

Adjustment date: 04/12/2002 YGIZAW
12/10/2001 YGIZAW 00000007 09852058
01 FC:103 -234.00 OP

"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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/852,058	05/09/2001	Philip Morrison Giffard	DIAT:002

OIPE
MAY 2 8 2002
JC26
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 3768

FORMALITIES LETTER

OC000000007859441

Robert M. O'Keefe
O'KEEFE, EGAN & PETERMAN
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

Date Mailed: 04/12/2002

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

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

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

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

A copy of this notice <u>MUST</u> be returned with the reply.

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03CO

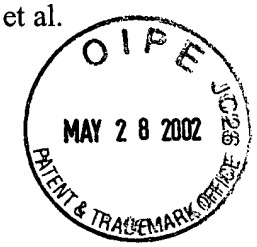
#11

213

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Philip M. Giffard et al.
Filed:	May 9, 2001
For:	A METHOD
Serial No.:	09/852,058
Group Art Unit:	Unknown
Examiner:	Unknown
Atty Dkt:	DIAT:002

OIPE JC26 MAY 2 8 2002 PATENT & TRADEMARK OFFICE



Pursuant to 37 C.F.R. 1.8, I certify that this correspondence is being deposited with the U.S. Postal Service in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on the date below:

5-21-02 Debbie Ferrara

Date Name

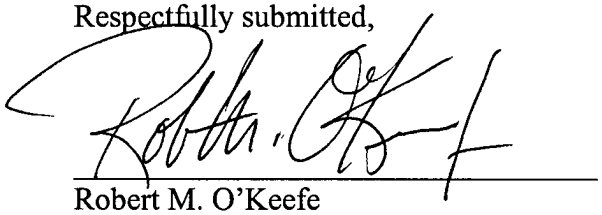
RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURE

Dear Sir:

In response to the attached Notice dated April 12, 2002, enclosed is a diskette with a substitute computer readable form copy of the "Sequence Listing." The content of the sequence listing information recorded in computer readable form is identical to the written sequence listing and does not include new matter.

The examiner is invited to contact the undersigned at the phone number indicated below with any questions or comments, or to otherwise facilitate expeditious and compact prosecution of the application.

Respectfully submitted,



Robert M. O'Keefe
Registration No. 35,630
Attorney for Applicants

O'KEEFE, EGAN & PETERMAN
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, Texas 78746
(512) 347-1611
FAX: (512) 347-1615

OIPE
MAR 15 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Philip M. Giffard et al.

Filed: May 9, 2001

For: A METHOD

Serial No.: 09/852,058

Group Art Unit: Unknown

Examiner: Unknown

Atty Docket No.: DIAT:002

Pursuant to 37 C.F.R. 1.8, I certify that this correspondence is being deposited with the U.S. Postal Service in a first class, postage prepaid, envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on the date below:

3-11-02
Date

Name

Assistant Commissioner For Patents
Washington, D.C. 20231

Dear Sir:

Transmitted herewith for filing are:

- ☐ New Patent Application consisting of _____ pages and _____ Figs.
- ☐ Continued Prosecution Application (37 CFR §1.53(d)) -- The parent application is USSN _____ filed on _____. The prior Examiner was _____ in Group Art Unit _____.
- ☒ Response to Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures and Part 2 Copy of Notice
- ☒ IDS; 1449; References B1-B3; and C1-C7
- ☐ Inventors' Declaration/Power of Attorney
- ☐ Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i)

☒ Petition for a one (1) month extension of time

☒ Check in the amount of $55.00

☒ The Commissioner is authorized to deduct any requisite fees under 37 CFR 1.16 to 1.21 from, or deposit any credits to, Deposit Account No. 10-1205/DIAT:002, including any concurrent or future required extension of time fees.

☒ In accordance with 37 CFR 1.136(a)(3), the Commissioner is authorized to treat any concurrent or future reply that requires a petition for an extension of time under 37 CFR 1.126(a) to be timely, as incorporating a petition for extension of time for the appropriate length of time, and the Commissioner is authorized to deduce any requisite fees under 37 CFR 1.16 to 1.21 from Deposit Account No. 10-1205.

☒ Postcard. Please date stamp and mail this postcard to acknowledge receipt of the enclosed documents.

☒ Other: Diskette containing corrected Sequence Listing; Print-out of corrected Sequence Listing

The Examiner is invited to contact the undersigned at 512-347-1611 with any questions or comments, or to otherwise facilitate expeditious prosecution of the application.

Respectfully submitted,

Robert M. O'Keefe
Registration No. 35,630
Attorney for Applicant

O'KEEFE, EGAN & PETERMAN, L.L.P.
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, Texas 78746
512-347-1611
512-347-1615 (Fax)

MAR 15 2002

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
09/852,058	05/09/2001	Philip Morrison Giffard	DIAT:002

CONFIRMATION NO. 3768

FORMALITIES LETTER

OC000000007181543

Robert M. O'Keefe
O'KEEFE, EGAN & PETERMAN
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

Date Mailed: 12/11/2001

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).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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JUL 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,787,319 :
Issued September 9, 2004 :
Application No. 09/852,100 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket Number: AHP98126P2 :

This is a decision on the petition, filed June 27, 2005, under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is Wyeth and that the incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Wyeth is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

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

Petitioner's deposit account no. 19-2380 was charged $400.00 for the petition pursuant to 37 CFR 1.17(f) as effective December 8, 2004, the fee was increased from $130.00 to $400.00.

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

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of Bantz et al. :
Application No. 09/852,110 : Decision on Petition
Filing Date: May 9, 2001 :
Attorney Docket No. YOR920010328US1 :

This is a decision on the petition under 37 CFR 1.181, filed February 2, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A Request for Continued Examination and submission were mailed November 28, 2005.

The Office mailed an Office action on February 9, 2006. The first page of the Office action stated, "This action is non-final." Page 15 of the Office action stated the action was a final Office action.

The Image File Wrapper fro the application contains an annotation associated with the Office action mailed February 9, 2006. The annotation states, "application counted as final, office action states non-final."

On April 4, 2006, attorney Peter Manzo spoke with the examiner to clarify the nature of the Office action. Attorney Manzo's declaration states the examiner informed Manzo the Office action was a non-final Office action.

Legal Assistant Monica Gomez spoke with the examiner several times during April of 2006. In addition to a declaration reciting Ms. Gomez's recollection of events, petitioner has submitted a copy of a memorandum Ms. Gomez prudently prepared April 21, 2006, to be placed in the file.

At the time the memorandum was typed, events would have been fresh in Ms. Gomez's mind. Therefore, the memorandum will be given significant evidentiary weight.

The April 21, 2006 memorandum stated, with emphasis in the original,

> Per my conversation with Examiner Myriam Pierre on 4/13/06, ... the examiner stated the office action is **NON-FINAL**. I informed her [attorney Manzo] would like to have the office action reissued with a new mailing date. She stated she would have to discuss the matter with her supervisor. On 4/19/06, Examiner Pierre called and stated that she still does not have an answer regarding the re-issue of the non-final Office action. On 4/21/06, I called Examiner Pierre and informed her that after today I will be on vacation and will not return until 05/01/06, and I asked her to please contact Peter Manzo with a status.

A response to the Office action was filed May 8, 2006. The response stated in part,

> During the [April 4, 2006] teleconference, the Examiner and Applicants' representative discussed the finality of the Office action dated February 9, 2006.... Examiner Pierre confirmed during the teleconference that the action is non-final.

On May 19, 2006, the Office mailed an Advisory action. The Advisory Action stated,

> The reply was filed after a final rejection....
>
> The limitation "comparing the transcription ... introduces new features which alter the scope of the claim and would require a further search and/or consideration.

On June 15, 2006, paralegal Dell Whitton left a voice message for the examiner. Whitton stated the Advisory Action appeared to be erroneous since a "final" Office action had not been mailed. Whitton states he did not receive a return phone call.

On June 28, 2006, Whitton left another phone message with the examiner. Whitton states his call was not returned.

On July 5, 2006, Whitton called and spoke with the examiner. Per Whitton, the examiner, "stated there was nothing the Firm needed to do and the Firm should wait until a new action is mailed."

A Notice of Abandonment was mailed January 3, 2007.

The instant petition was filed February 2, 2007.

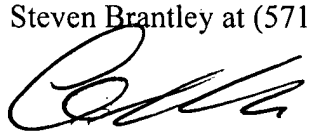
Discussion:

After consideration of all the facts and circumstances, the Office has determined the holding of abandonment was improper.

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

Technology Center Art Unit 2626 will be informed of the instant decision. Thereafter, the examiner will treat the May 8, 2006 as a timely response to a non-final Office action.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
NEW YORK, NY 10168

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Seiichi Hayashi et al :
Application No. 09/852,111 : DECISION GRANTING PETITION
Filed: May 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. F-6971 :

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 18 2005

Director's Office
Office of Patent Publication

STEPHEN D. SCANLON
JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

In re Application of :
MAIER, WILHELM F., et al. :
Application No. 09/582,116 : **DECISION ON PETITION**
Filed: September 18, 2000 :
Attorney Docket No. 975902600043 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 C.F.R. 1.181, received in the United States Patent and Trademark Office (USPTO) on May 14, 2004.

The petition is **DISMISSED**.

The application was held abandoned for Applicants failure to timely pay the issue fee and publication fee, if applicable, within the three (3) month statutory period to reply, as required in the Notice of Allowance and Fee(s) Due, mailed December 1, 2003.

The Office acknowledges receipt of PART B – FEE(S) TRANSMITTAL on March 1, 2004, as evidenced by the "Office Date" stamp thereon and thereafter scanned as a computer image into the Image File Wrapper (IFW) system. The FEE(S) TRANSMITTAL authorized that the Issue Fee, and Advance Order Copies Fee be charged to Deposit Account No. 50-1432.

Unfortunately, on March 4, 2004, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

The petitioner therefore has not complied with 37 CFR 1.25(b), which states in part:

> ... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.
> ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

In light of the non-compliance with 37 CFR 1.25(b), the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** 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 703-305-9282 or 9285 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.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrica J O'Shea
O'Shea Getz & Kosakowski P C
1500 Main Street
Suite 912
Springfield, MA 01115

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OCT 17 2006
OFFICE OF PETITIONS

In re Application of :
Czech, et al. : DECISION ON PETITION
Application No. 09/852,122 :
Filed: May 8, 2001 :
Atty. Dkt. No.: Micronas.6158 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 18, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned August 22, 2006 for failure to timely submit a proper reply to the final Office action mailed February 21, 2006. The final Office action set a three month shortened statutory period of time for reply. An extension of time and a reply to the final Office action were submitted August 18, 2006. However, the reply failed to place the application in condition for allowance, as indicated in the Advisory Action mailed August 29, 2006. Notice of Abandonment was mailed September 18, 2006.

Petitioners argue that the response to the final Office action submitted August 18, 2006 should have been considered a request for continued examination (RCE) under 37 CFR 1.114 because the response included an authorization to charge "any further extension and/or fee" to practitioner's deposit account.

Petitioners' arguments have been considered, but are not found convincing. An RCE must be made by request and authorization to charge fees cannot be deemed a constructive request for an RCE.

Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to an amendment complying with 37 CFR 1.116; a Notice of Appeal (and appeal fee); or (C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e., an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e).

Petitioners herein failed to timely submit a proper reply to the final rejection. Accordingly, withdrawal of the holding of abandonment would not be appropriate.

ALTERNATE VENUE

Petitioners are strongly urged to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Samuels, Gauthier & Stevens LLP
Suite 3300
225 Franklin Sreet
Baston, MA 02110

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of : ON PETITION
Czech et al. :
Application No. 09/852,123 :
Filed: May 8, 2001 :
Atty Docket No. Micronas.6247 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 21, 2005, to revive the above-identified application.

The petition is **dismissed**.

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

The above-identified application became abandoned for failure to file an appeal brief after filing a Notice of Appeal. Applicant filed a Notice of Appeal on October 20, 2004. Thereafter, Applicant was given two (2) months within which to file an appeal brief. Extensions of time under 37 CFR 1.136 were available. Applicant failed to file an appeal brief. Since no claims were allowed, the application became abandoned on December 20, 2004. See, 37 CFR 1.192 and MPEP 1206[1].

[1] Although failure to file the brief within the permissible time will result in dismissal of the appeal, if any claims stand allowed, the application does not become abandoned by the dismissal, but is returned to the examiner for action on the allowed claims. See MPEP § 1215.04.

The instant petition

Applicant files the instant petition and appeal brief.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (**1**), Applicant has failed to file a proper brief[2]. The brief fails to comply with 37 CFR 41.37(c)[3].

Alternatively, Applicant may withdraw the appeal or file a continuing application.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

[2] If there are no allowed claims, the application is abandoned as of the date the brief was due. If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application, as in other cases of abandonment, and to reinstate the appeal; if the appeal is dismissed, but the application is not abandoned, the petition would be to reinstate the claims and the appeal, but a showing equivalent to that in a petition to revive under 37 CFR 1.137 is required. In either event, a proper brief must be filed before the petition will be considered on its merits. (Emphasis supplied).

[3] Any brief filed on or after September 13, 2004 must comply with the requirements set forth in 37 CFR 41.37 and accompanied by the fee under 37 CFR 41.20(b)(2), unless the brief has a certificate of mailing date before September 13, 2004. Accord MPEP 1205.02 Rev. 3, August 2005.

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Samuels, Gauthier & Stevens LLP
Suite 3300
225 Franklin Sreet
Baston, MA 02110

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Czech et al.	:	
Application No. 09/852,123	:	
Filed: May 8, 2001	:	
Atty Docket No. Micronas.6247	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 21, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to file an appeal brief after filing a Notice of Appeal. Applicant filed a Notice of Appeal on October 20, 2004. Thereafter, Applicant was given two (2) months within which to file an appeal brief. Extensions of time under 37 CFR 1.136 were available. Applicant failed to file an appeal brief. Since no claims were allowed, the application became abandoned on December 20, 2004. See, 37 CFR 1.192 and MPEP 1206[1].

With the instant petition, Applicant has filed an appeal brief and met the requirements for a grantable petition under 37 CFR 1.137(b).

This application is being returned to Technology Center 2826 for processing of the Appeal Brief 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

[1] Although failure to file the brief within the permissible time will result in dismissal of the appeal, if any claims stand allowed, the application does not become abandoned by the dismissal, but is returned to the examiner for action on the allowed claims. See MPEP § 1215.04.

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)
6802098	2004-10-12	09852196	2001-05-09	24954-15US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John F. Klos/	Date (YYYY-MM-DD)	2009-01-08
Name	John F. Klos	Registration Number	37162

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. 6802098
Issue Date: October 12,2004
Application No. 09852196
Filed: May 9,2001
Attorney Docket No. 24954-15US

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

This is a decision on the electronic petition, filed January 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS ST.
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No.: 09/852,220 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No.: SEL 259 :

This is a decision on the petition, filed March 20, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2008, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
Suite 2850
200 West Adams St.
Chicago, IL 60606

Mail Date: 04/21/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7633471	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/852,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **990** 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
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WASHINGTON, D.C. 20231
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Paper No. 4

Thomas R. Morrison
Morrison Law Firm
145 North Fifth Avenue
Mount Vernon, NY 10550

COPY MAILED

DEC 0 4 2001

OFFICE OF PETITIONS

In re Application of
Mitsuru Akaike
Application No. 09/852,225
Filed: May 9, 2001
For: Stopper Device and Telescope Unit

: DECISION GRANTING
: PETITION

This is a decision on the paper styled "Petition To Correct Filing Receipt" filed August 20, 2001, requesting that the above-identified application be accorded a filing date of May 9, 2001, rather than the presently accorded filing date of May 8, 2001. The request is properly being treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was filed on May 9, 2001. In support of the petition, petitioner has provided a copy of an "Express Mail" mailing label and an "Express Mail" Corporate Account Mailing Statement, both bearing "Express Mail" label no. EL819316131US, the same "Express Mail" label number which appears on the original application transmittal letter. However, the date listed in the "date-in" box appearing in the copy of the "Express Mail" label is either omitted or illegible.

The rule specifically requires that the "date-in" must state the date of actual deposit. Placing the "Date-In" on the "Express Mail" label by the postal clerk establishes that the package was actually received by the Postal Service. That is the date that verifies that the package was actually mailed. Therefore, since the full date of deposit is either missing or illegible in the "date-in" box on the Express Mail label, the copy of the Express Mail label cannot be accepted as evidence in the support of the petition. However, the "Express Mail" Corporate Account Mailing Statement submitted with the Express Mail label shows that the correspondence was deposited with the U.S. Postal Service (USPS) as Express Mail on May 9, 2001.

In view the above, the petition meets the requirements of rule 37 CFR 1.10.

The petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for

further processing with a filing date of May 9, 2001 and for mailing of a Corrected Filing Receipt.

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

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

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of :
Mitsuru Akaike :
Application No. 09/852,225 :
Filed: May 9, 2001 :
Patent No.: 6,854,697 :
Issued: February 15, 2005 :
Attorney Docket No. :
M1596-226 :

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OCT 3 1 2005
OFFICE OF PETITIONS

This is a decision on the petition filed May 16, 2005, requesting a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction[2].

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004
[2] The request for Certificate of Correction was filed August 18, 2005 via facsimile as per Applicant.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

MAIL

MAR 2 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

In re Application of
Cristofalo, et al.

Application No. 09/852,229
Filed: May 08, 2001
For: TECHNIQUE FOR OPTIMIZING THE DELIVERY OF ADVERTISEMENTS AND OTHER PROGRAMMING SEGMENTS BY MAKING BANDWIDTH TRADEOFFS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on October 28, 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 attorneys/agents of record are withdrawn.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of
Michael Cristofalo et al
Application No. 09/852,229
Filed: May 8, 2001
Attorney Docket No. 2050.065US1

DECISION ON PETITION
TO WITHFRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed September 29, 2006.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 3, 2007. 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 below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV
P.O. BOX 2938
MINNEAPOLIS MN 55402-0938

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 9

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al :
Application No. 09/852,239 : DECISION ON PETITION
Filed: May 9, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01-014 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/298,226, filed April 22, 1999, as set forth in the amendment filed with May 13, 2004.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed May 13, 2004. However,

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

By hand:
Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions

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[1] *Note* 37 CFR 1.121

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 (703) 305-8680.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

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JUL 22 2004
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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

In re Application of
Jay S. Walker et al
Application No. 09/852,239
Filed: May 9, 2001
Attorney Docket No. 01-014

: 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 May 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/298,226, filed April 22, 1999, as set forth in the amendment filed with May 13, 2004.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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WALKER DIGITAL

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

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed May 13, 2004. However,

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions

[1] *Note* 37 CFR 1.121

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 (703) 305-8680.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al :
Application No. 09/852,239 : DECISION ON PETITION
Filed: May 9, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01-014 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/298,226, filed April 22, 1999, as set forth in the amendment filed August 9, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 9, 2001, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as 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 above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application (but also which eliminates the claim for priority to nonprovisional Application Nos. 08/497,080, 08/624,998 and 08/635,576), has been mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.[1]

This application is being forwarded to Technology Center Art Unit 2132 for appropriate action on the amendment filed August 9, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application, which is the subject of the instant petition.

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

[1] Effective September 27, 2004, the number will be 571-272-3218.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
Gordon GOOD
Application No. 09/852,244
Filed: May 31, 2006
Attorney Docket No. S1105.001

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 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 C. Kloke on behalf of all attorneys/agents of record associated with Customer Number 22830.

All attorneys/agents of record associated with Customer Number 22830 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: OPSWARE INC.
599 N. MATHILDA
SUNNYVALE, CA 94085

JONATHAN HARRIS, CONLEY ROSE, P.C.
JPMORGAN CHASE TOWER
600 TRAVIS ST., SUITE 7100
HOUSTON, TX 77002-2912

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
09/852,244	05/10/2001	Gordon Good	PA3996US

CONFIRMATION NO. 4076

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

OC000000028843917

Date Mailed: 03/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2007.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ____

VIDAS ARRETT & STEINKRAUS PA
6109 BLUE CIRCLE DRIVE, SUITE 2000
MINNETONKA MN 55343-9185

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JUN 07 2002

OFFICE OF PETITIONS

In re Application of :
Mathew McPherson :
Application No. 09/852,253 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. M55.2-9888 :

This is a decision on the petition, filed by facsimile transmission on June 6, 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 May 17, 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.

The application is being 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.

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

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[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 5

MAIL

APR 25 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

In re Application of :
Gonzalez et al. :
Application No. 09/852,263 : DECISION ON REQUEST TO
Filed: May 10, 2001 : WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR SELECTING :
A PAPER SIZE FOR PRINTING AN IMAGE :
FILE

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 items (2) and (4) above. The undersigned, John W. Ryan, is not of record. Furthermore, the Patent Office 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 Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: CAROL CLAYTON
WILMER, CUTLER, & PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 10

Crowell & Morning
Intellectual Property Group
PO Box 14300
Washington, DC 20044-4300

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Alexander Knoll :
Application No. 09/852,292 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 420/49867 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 in reply to the non-final Office action mailed December 11, 2002, which set a shortened statutory period for reply of three month. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 12, 2003.

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

The application file is being forwarded to Technology Center AU 2674.

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

MAIL

DEC - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of: Work
Application No. 09/852,336
Filed: May 08, 2001
For: METHOD AND APPARATUS FOR INTERNET-BASED HUMAN NETWORK BROKERING

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed August 2, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

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

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

11/29/04

MBS

UNITED STATES
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TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450 ALEXANDRIA VA 22313-450
WWW.USPTO.GOV

SEP 24 2003

#10

Daniel T. Christenbury
IP Department
Schnader Harrison Segal & Lewis
1600 Market Street, 36th Floor
Philadelphia, PA 19103

In re Application of :
Michael Lazdunski et al :
Serial No.: 09/852,378 : Decision on Petition
Filed: May 10, 2001 :
Attorney Docket No.: 1105-R-00

This is in response to applicant's "Request to Withdraw Holding of Abandonment" filed May 28, 2003. The delay is regretted.

On October 2. 2002, a Notice to Comply with Requirement for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed. On May 5, 2003, a Notice of Abandonment for failure to timely file a proper response was mailed. On May 28, 2003, the present petition was filed. Applicants assert that a response was timely filed on October 14, 2002 and a copy of post card showing receipt by the mailroom on October 16, 2002 is attached.

Applicants' statement and evidence have been reviewed and the response filed on October 14 is considered to be timely. Accordingly, the petitionis granted.

The instant application has been returned o pending status and is being forwarded o examiner for examination after mailing of this letter.

Cecilia Tsang for
Jasemine Chambers
Director, Technology Center 1600

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 25 2005

IP DEPARTMENT OF PIPER RUDNICK, LLP
ONE LIBERTY PLACE, SUITE 4900
1650 MARKET STREET
PHILADELPHIA, PA 19103

In re Application of	:
Michael Lazdubski et al	:
Serial No.: 09/852,378	: PETITION DECISION
Filed: May 10, 2001	:
Attorney Docket No.: 1105-R-00	:

This is in response to the petition under 37 CFR 1.181, filed September 1, 2005, requesting withdrawal of abandonment based on a timely reply.

A review of the file history shows that a request to withdraw a holding of abandonment was filed on May 28, 2003, and was granted on September 24, 2003. Official Notice of the withdrawal of abandonment was also mailed to applicants on April 14, 2004. Through Office error the abandoned status of the application was not removed and no further action was taken on the application. Applicants filed a status inquiry on January 13, 2005 followed by this petition on September 1, 2005, seeking correction of Office records and further prosecution of the application. Following review of the file, the status was corrected to that of pending application and applicants have now received an Office action on the merits of the application mailed October 7, 2005.

For the reasons set forth the petition is **DISMISSED** as moot.

The application will be retained in current status awaiting applicants' reply to the outstanding Office action.

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

George C. Elliott
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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STEVENS LAW GROUP
P.O. Box 1667
San Jose, CA 95109

COPY MAILED
MAY 22 2006
OFFICE OF PETITIONS

In re Application of
TINDLE *et al*
Application No.: 09/852,397
Filing Date: May 9, 2001
Docket No.: 99RSS178
For: CHIP ON BOARD PACKAGE FOR IMAGER

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 February 17, 2006. The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to a Notice of Allowance and Fee(s) Due mailed November 16, 2005. The Office Action set a non-extendable three (3) month period for reply.

Petitioners have met the requirements for revival under 37 CFR 1.137(b). Petitioners submitted the required issue fee, paid the $1,500.00 petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to Art Unit 2813 for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

LAHIVE & COCKFIELD LLP

COUNSELLORS AT LAW
28 STATE STREET
BOSTON, MASSACHUSETTS 02109-1784
TELEPHONE (617) 227-7400
FAX (617) 742-4214
lc@lahive.com

OIPE JC68
SEP 17 2001
PATENT & TRADEMARK OFFICE

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THOMAS V. SMURZYNSKI
RALPH A. LOREN
GIULIO A. DeCONTI, JR.
ANN LAMPORT HAMMITTE
ELIZABETH A. HANLEY
AMY BAKER MANDRAGOURAS
ANTHONY A. LAURENTANO
KEVIN J. CANNING
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SHAHID HASAN, Ph.D.
JACOB G. WEINTRAUB
JONATHAN M. SPARKS, Ph.D.
CRISTIN E. HOWLEY, Ph.D.

* Admitted in NY only
** Passed the Patent Bar Examination

September 14, 2001

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Patent Application Serial No. 09/852,400
Title: Compositions, Kits, and Methods for Identification, Assessment, Prevention, and Therapy of Psoriasis
Filed: May 9, 2001
Inventor: William L. Trepicchio et al.
Attorney Docket No.: GFN-5405CP

Dear Sir:

I enclose herewith for filing in the above-identified application the following:

1. Response to Notice to File Missing Parts of Application (in duplicate);
2. Request for One-Month Extension of Time (in duplicate);
3. Executed Declaration, Petition and Power of Attorney (14 pages);
4. Copy of Formalities Letter;
5. Check for $130.00 (surcharge);
6. Check for $110.00 (extension fee); and
7. Return Postcard.

Please charge any necessary fees to our Deposit Account No. 12-0080. The undersigned requests any extensions of time necessary to respond. A duplicate of this sheet is enclosed.

I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, DC 20231 on:

September 14, 2001
Date

Elizabeth A. Hanley, Reg. No. 33,505

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

Elizabeth A. Hanley, Esq.
Reg. No. 33,505 FOR
Amy E. Mandragouras, Esq.
Reg. No. 36,207

#4

OIPE JC40
SEP 17 2001
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: William L. Trepicchio et al.

Serial No.: 09/852,400

Filed: May 9, 2001

For: Compositions, Kits, and Methods for Identification, Assessment, Prevention, and Therapy of Psoriasis

Attorney Docket No.: GFN-5405CP

Group Art Unit: 1623

Examiner: Not yet assigned

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Certificate of First Class 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: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231 on the date set forth below.

9/14/01
Date of Signature and of Mail Deposit

By: _____
Elizabeth A. Hanley, Esq.
Reg. No. 33,505

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Dear Sir:

Responsive to the Notice to File Missing Parts of NonProvisional Application dated July 11, 2001, Applicants' attorney submits herewith the executed Declaration, Petition and Power of Attorney for Patent Application for the above-identified patent application. A check in the amount of **$130.00** is enclosed to cover the surcharge owed by Applicants based on large entity status. A copy of the Formalities Letter is also enclosed.

The Commissioner is hereby authorized to charge payment of any fees under 37 C.F.R. 1.16 and 1.17 during the pendency of this application or credit any overpayment to Deposit Account No. 12-0080.

Please charge any underpayments or credit any overpayments associated with this communication to our Deposit Account No. 12-0080. A duplicate of this letter is enclosed.

Respectfully submitted,

Elizabeth A. Hanley, Esq.
Reg. No. 33,505 FOR
Amy E. Mandragouras, Esq.
Reg. No. 36,207

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: September 14, 2001

OIPE JC48
SEP 1 7 2001
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UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/852,400	05/09/2001	William L. Trepicchio	GFN-5405

CONFIRMATION NO. 5404

000959
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

FORMALITIES LETTER

OC000000006284331

Date Mailed: 07/11/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

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

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

07/19/2001 DABRAHA1 00000102 09852400
02 FC:105 130.00 OP

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LAHIVE & COCKFIELD
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JUL 13 2001
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FORWARDED:

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Washington, D.C. 20231
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Paper No. 16

PAUL M. THYFAULT
IMMERSION CORPORATION
801 FOX LANE
SAN JOSE CA 95131

COPY MAILED

AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Louis B. Rosenberg :
Application No. 09/852,401 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. IMM005B :

This is a decision on the petition, filed by facsimile transmission on August 19, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 15, 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]

At the time of rendering the instant decision, the file was unavailable. However, Office computer database records do not reflect that petitioner herein was ever appointed as attorney of record. The instant petition under 37 CFR 1.313(c)(2), RCE, and IDS are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Philip H. Albert appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose

---

[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.**

behalf he acts. However, if Mr. Albert desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Albert, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2675 for processing of the request for continued examination under 37 CFR 1.114.

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

cc:

Philip H. Albert
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
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KACVINSKY LLC
C/O INTELLEVATES
P.O. BOX 52050
MINNEAPOLIS MN 55402

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NOV 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cohen et al. :
Application No. 09/852,432 :
Filed: May 9, 2001 :
Attorney Docket No. 1020.P11041 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 20, 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

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JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Agrawal et al. :
Application No. 09/852,436 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. 010198 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 2, 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 February 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 13, 2003. A Notice of Abandonment was mailed on December 1, 2003.

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

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

TROUTMAN SANDERS, LLP
ATTENTION: PATENT DOCKETING CLERK - 46TH
600 PEACHTREE STREET, N.E., SUITE 5200
ATLANTA, GA 30308-2216

COPY MAILED

AUG 30 2001

OFFICE OF PETITIONS

In re Application of :
Even, et al. :
Application No. 09/852,438 : DECISION ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. ACC3.CIP :

This is a decision on the petition under 37 CFR 1.10, filed June 8, 2001, requesting that the above-identified application be accorded a filing date of May 9, 2001, rather than the presently accorded filing date of May 8, 2001.

Petitioner maintains that the above-identified application was deposited in the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) on May 9, 2001, pursuant to 37 CFR 1.10. However, the Office erroneously accorded the application a filing date of May 8, 2001.

The instant petition was filed promptly. In support of the petition, petitioner submitted a return postcard receipt with a United States Patent and Trademark Office date-stamp of May 8, 2001, and a "true" copy of the "Express Mail Post Office to Addressee" mailing label purportedly showing a "date-in" of May 9, 2001. Unfortunately, the date-in on the Express Mail label is not legible. Nonetheless, information (a copy of which is enclosed) retrieved from a USPS database shows that the package bearing Express Mail label No. EL812326664US, the Express Mail label number located on the original application papers, was accepted by the USPS on May 9, 2001 at 10:36 in the evening. In view of this evidence, the requirement of 37 CFR 1.10(c) for a true copy of the Express Mail mailing label is hereby waived, *sua sponte*, under 37 CFR 1.183.

The petition is granted.

No petition fee is necessary and none has been charged.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to May 9, 2001, and completion of pre-examination processing.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Y. Tartera-for

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

Enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

JOHN F. BENINATI
GENERAL ELECTRIC COMPANY
3135 EASTON TURNPIKE, W3C
FAIRFIELD, CT 06431

COPY MAILED

JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of
Andrew Davies et al
Application No. 09/852,477
Filed: May 10, 2001
Attorney Docket No. LD11412

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 July 9, 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 10, 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.

The Associate Power of Attorney filed May 23, 2003 is noted and made of record.

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

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

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

cc: FAY SHARPE FAGAN MINNICH & McKEE
1100 SUPERIOR AVENUE, 7TH FLOOR
CLEVELAND, OH 44114-2518

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

KUDIRKA & JOBSE LLP
ONE STATE STREET
SUITE 1510
BOSTON MA 02109

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JAN 10 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Walter E. Tuvell
Application No. 09/852,499
Filed: May 10, 2001
Attorney Docket No. G0008/7005

This is a decision on the petition under 37 CFR 1.137(f), filed September 10, 2001, to revive the instant nonprovisional application.

The petition is **GRANTED.**

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

The application file is being forwarded to Technology Center 2100 for examination in due course.

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

K. McLaughlin /fa.

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, DC 20231
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APR 11 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Marshall, Gerstein & Borun
6300 Sears Tower
233 South Wacker
Chicago, IL 60606-6357

Paper No. 6

In re application of : **DECISION ON PETITION**
Michael Bleser et al. : **TO MAKE SPECIAL**
Application No. 09/852,501 : **(INFRINGEMENT)**
Filed: May 10, 2001
For: METHOD OF SELLING GIFTCARDS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 28, 2001 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. The delay in treating this petition is sincerely regretted.

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 December 28, 2001 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

KJD/tpl: 4/2/03

APPROVED

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WORKMAN | NYDEGGER

1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Phone: (801) 533-9800
Fax: (801) 328-1707

FAX TRANSMISSION COVER SHEET

Date:	August 4, 2005
To:	United States Patent & Trademark Office
Fax:	(571) 273-8300 (703) 872-9306
Phone:	
From:	R. Burns Israelsen
Re:	Serial No. 09/852,506 Filing Date: 05/10/2001

YOU SHOULD RECEIVE 4 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 801-533-9800

Comments:

Please see attached.

PRIVILEGED AND CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) Applicant(s): Nicholas J. Call			Docket No. 15360.1
Application No. 09/852,506	Filing Date 05/10/2001	Examiner Shannon S. Saliard	Group Art Unit 3639

Invention: ONLINE CREATION OF TICKETS FOR TICKETED EVENTS

I hereby certify that this Request for Permission to Withdraw as Attorneys of Record
(Identify type of correspondence)
is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. (571) 273-8300
on August 4, 2005
(Date)

Beth Haslam
(Typed or Printed Name of Person Signing Certificate)

(Signature)

Note: Each paper must have its own certificate of mailing.

BEST AVAILABLE COPY

VIA FACSIMILE

PATENT APPLICATION
Docket No. 15360.0

In re application of:	
	City-Tix.com
Serial No:	09/852,506
Filed:	May 10, 2001
Title:	ONLINE CREATION OF TICKETS FOR TICKETED EVENTS
Examiner:	Shannon S. Saliard

REQUEST FOR PERMISSION TO WITHDRAW
AS ATTORNEYS OF RECORD UNDER 37 C.F.R. § 2.19 (b)

Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

I hereby apply to withdraw as attorney or agent for the above-identified application. In addition, all attorneys and agents listed under Customer Number 022913 also hereby apply to withdraw as attorneys and agents, respectively, for the above-identified application.

The reasons for this request are those set forth in 37 C.F.R. § 10.40 (c)(1)(iv). Specifically, the applicant has failed to pay one or more bills rendered by me for an unreasonable period of time. Such reasons for the request to withdraw as attorneys are provided in this document in view of 37 C.F.R. § 10.40 (c), which states that a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because of any of certain reasons enumerated in 37 C.F.R. § 10.40 (c). The attorneys requesting withdrawal have also complied with the requirements for withdrawal enumerated 37 C.F.R. § 10.40 (a).

The attorneys requesting withdrawal have given due notice to the applicant of their withdrawal from employment. The attorneys requesting withdrawal have delivered to the applicant all papers and property in the attorneys' file concerning the prosecution of the application.

The undersigned attorney currently believes that the current mailing address of the applicant is:

Mr. Nick Call
2333 East Cliff Swallow Drive
Sandy, Utah 84093

I am authorized to sign on behalf of each attorney or agent associated with the customer number 022913, and hereby sign on behalf of each attorney or agent associated with this customer number.

Dated this 4 day of August, 2005.

Respectfully, submitted,

R. Burns

R. BURNS ISRAELSEN
Registration No. 42,685

WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 8411
Telephone: (801) 533-9800
Facsimile: (801) 328-1707

RBI:blh
W:\15360\RBI.M0000000732V001.doc

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

JUL 24 2003

#8

JOHN G. POSA
GIFFORD, KRASS, GROH ET AL
280 N. OLD WOODWARD AVENUE, SUITE 400
BIRMINGHAM, MI 48009

In re Application of	:
Donald E. Gillespie	:
Serial No.: 09/852,519	: PETITION DECISION
Filed: May 10, 2001	:
Attorney Docket No.: DEG-10002/29	:

This is a decision on the petition under 37 CFR 1.144, filed June 10, 2003, requesting review of a restriction requirement under 37 CFR 1.144.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims 1-21. The examiner mailed a first Office action to applicant on September 4, 2002, setting forth a restriction requirement, as follows:

> Group I, claims 1-8, drawn to a punctum plug;
> Group II, claims 9-15, drawn to a system for determining the position of a punctum plug;
> Group III, claims 16-21, drawn to an apparatus for viewing a punctum plug.

The examiner reasoned that Groups II and III were related as process and apparatus for its practice and that the process could be practiced by other apparatus, including by hand. Groups I and III were related as product and apparatus and that the product could be used with other apparatus. Groups I and II were related as product and process of use and the product could be used in other processes.

Applicant replied on December 2, 2002, electing Group I with traverse as to Group II. Applicant argued that there is no support for the examiner's statement that the process of positioning could be done with the unaided eye and that claim 9 depends from claim 1 and should not be separated from it.

The examiner mailed a non-Final Office action to applicant on February 26, 2003, maintaining the restriction requirement stating that claim 9 is a "methodology " claim (method of use) that can be practiced in other systems where no optical element is present. The requirement was made Final.

The examiner rejected claims 1-8 under 35 U.S.C. 112, second paragraph,, as indefinite. Claims 1-4 and 6 were rejected under 35 U.S.C. 102(b) as anticipated by L'esperance. Claims 1-8 were rejected as unpatentable over Seder et al or Freeman in view of Gwon et al.

Applicant replied on June 10, 2003, with an argument addressing the rejections of record and by filing this petition with respect to the restriction requirement.

DISCUSSION

Applicant argues that the restriction is improper and requests examination of withdrawn claims 9-21. Applicant points out that "claim 9 is an independent 'system' claim that makes reference to... claim 1 and 'at least one optical element.'" Applicant states that the examiner is incorrect in his argument that the claim is a methodology claim on several grounds, but fails to enumerate such grounds other than that claim 9 is not a methodology claim and that it requires an optical element. Applicant admits that the application admits that other systems may be used.

Careful review of the restriction requirement shows that the examiner has divided the claims into three statutory classes, product or article, process of using and apparatus for use. Even though claim 9 is not an "independent' claim, it is directed to an invention different from the product of claim 1. Mere inclusion of the product of a previous claim in a process claim does not require that the claims be examined together nor provide evidence that they are even closely related. No error is found in the examiner's restriction requirement.

DECISION

Applicants' petition under 37 CFR 1.144 is **DENIED.**

The application will be forwarded to the examiner for further consideration including consideration of the amendment filed June 10, 2003.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

PTO/SB/83 (09-04)
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	09/852,547
Filing Date	May 10, 2001
First Named Inventor	David Sirbasku
Art Unit	1642
Examiner Name	Karen A. Canella
Attorney Docket Number	1944-00800

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 23505

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

Request by the Applicant/Inventor

APPROVED
[signature]
SPRS, TC 1600
2/14/05

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	David A. Sirbasku, Ph.D.				
Address	Biopharma Global LLC 8714 West Royal Lane				
City	Irving	State	TX	Zip	75063
Country	USA				
Telephone	972-871-0100	Fax	972-871-0122		
Signature	Carol G. Mintz				
Name	Carol G. Mintz	Registration No.	38,561		
Date	Feb. 7, 2005	Telephone No.	713-238-8000		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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WASHINGTON, D.C. 20231
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Paper No. 5

MARCUS J. MILLET
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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NOV 2 1 2001

OFFICE OF PETITIONS

In re Application of :
Jevan Damadian et al. :
Application No. 09/852,551 :
Filed: May 10, 2001 :
Attorney Docket No. DAMADIAN 3.0-067 CIP V :

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 2800.

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
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Paper No. 16

KAPLAN & GILMAN, L.L.P.
900 Route 9 North
Woodbridge, NJ 07095

MAY 10 2005

In re Application of:
Jithamithra Sarathy et al.
Serial No.: 09/852,582
Filed: May 9, 2001
Attorney Docket No.: 312/12

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "REQUEST TO WITHDRAW THE NOTICE OF ABANDONMENT" filed March 11, 2004 and refiled, via facsimile transmission, on November 5, 2004. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on February 27, 2004 holding the application to be abandoned for failure to timely file a response to the Office action mailed on September 16, 2002. However, it is apparent that there was no abandonment in fact. A review of the application file reveals that a timely response to the Office action was filed on November 4, 2002.

The Notice of Abandonment mailed February 27, 2004 is **VACATED** and the holding of abandonment is withdrawn.

The application is being forwarded to the technical support staff for processing of the response filed November 4, 2002. The application will then be forwarded to the examiner for consideration of the response. Any inconvenience due to the inadvertent abandonment of the application is greatly regretted.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#7
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JUN 28 2002

OFFICE OF THE DIRECTOR
TC 3600

Christine Q. McLeod
2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

In re Application of	:	
Christopher T. Fey et al.	:	
Serial No. 09/852,589	:	DECISION ON REQUEST
Filed May 10, 2001	:	FOR WITHDRAWAL AS
For: METHOD AND SYSTEM FOR	:	ATTORNEY OR AGENT
GENETIC SCREENING DATA	:	
COLLECTION, ANALYSIS, REPORT	:	
GENERATION AND ACCESS	:	

A "Request for Withdrawal As Attorney Or Agent " was received in the above referenced application on May 21, 2002.

The Request is defective in that while it appears that the attorney has discussed with the applicant on numerous occasions the possibility of withdrawing as attorney, there is not a definite statement that the applicant has been notified that the attorney has filed a request to withdraw with the Patent and Trademark Office. Such a statement is required.

SUMMARY: Request DISMISSED.

Steven Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
dw: 06/25/02

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 02-05

JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
MCLEAN VA 22101

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Lang et al.	:	DECISION ON PETITION
Application No. 09/852,616	:	UNDER 37 CFR 1.137(f)
Filed: 11 May, 2001	:	
For: LOW-DRAG HYDRODYNAMIC SURFACES	:	

This is a decision on the petition under styled under 37 CFR 1.137(b) which is treated as a petition under 37 CFR 1.137(f),[1] filed on 22 December, 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(f)." This is not a final agency decision.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application. 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

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

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 petition lacks item (1). The petition fails to provide proper notice of foreign or international filing pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) in that the filing date of the subsequently-filed foreign or international application must be provided. Petitioner must provide the date that the foreign or multinational application was filed with any renewed petition.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Receipt of the Rescission of Previous Nonpublication Request filed with the present petition is acknowledged. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, indicating a projected publication date of 26 May, 2005, is enclosed.

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

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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JAMES C. WRAY
SUITE 300
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MAR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Lang et al.	:	DECISION ON PETITION
Application No. 09/852,616	:	UNDER 37 CFR 1.137(f)
Filed: 11 May, 2001	:	
For: LOW-DRAG HYDRODYNAMIC SURFACES	:	

This is a decision on the renewed petition, filed on 22 February, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 10 May, 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 present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 22 December, 2004. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing was mailed on 15 February, 2005.

This application is being referred to Technology Center Art Unit 3617 for further processing.

Any inquiries concerning this decision 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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AUG 0 5 2002

OFFICE OF PETITIONS

Applicant: Roland De La Mettrie et al.
Appl. No.: 09/852,624
Filing Date: May 11, 2001
Title: OXIDISING COMPOSITION FOR TREATING KERATIN FIBRES
Attorney Docket No.: 05725.0414-01
Pub. No.: US 2002/0040509 A1
Pub. Date: April 11, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on June 11, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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SEP 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Hideomi Suzawa, et al. :
Application No. 09/852,672 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. 12732-038001 :

This is a decision on the petition, filed September 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2812 for further processing of the request for continued examination under 37 CFR 1.114 filed September 17, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Hideomi Suzawa et al	:	
Application No. 09/852,672	:	DECISION GRANTING PETITION
Filed: May 11, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-038001	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino CA 95014

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MAR 11 2010

In re Application of	:	
Na et al.	:	
Application No. 09/852,717	:	DECISION ON PETITION
Filed: May 11, 2001	:	
Attorney Docket No. PANK01760 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on July 8, 2009. A Notice of Abandonment was mailed December 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, the request for the change in power of attorney by the assignee has been accepted.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three-month extension of time fee submitted with the petition on January 7, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This application is being referred to Technology Center AU 2815 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
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MAIL

JUL 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Motorola Energy Systems Group
Intellectual Property Department
1700 Belle Meade Court
Lawrenceville GA 30043

In re Application of:
Tan Thok Lin, et al.
Application No. 09/852,837
Filed: May 10, 2001
For: **AUDIO ACCESSORY SWITCHING CIRCUIT**

DECISION
ON PETITION

This is a response to the petition, filed July 8, 2005, which is treated as a Petition to Withdraw Notice of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

This application became abandoned for failure to timely file a response to the non-final Office action mailed September 29, 2004, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed June 17, 2005.

Petitioner alleges to have timely filed a response to the Office action. To support this position, Petitioner has included with the instant petition a copy of a response bearing a proper certificate of transmission having a date of November 23, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Given that petitioner is the one who apparently signed the certificate of mailing and petitioner states that they submitted a response on November 23, 2004, then petitioner has met the requirements above.

The petition is **GRANTED**. Accordingly, the holding of abandonment is withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response submitted with the petition. From there, the file will be forwarded to the examiner for consideration in due course.

Krista Zele
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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F. Rhett Brockington
10613 Kennel Lane
Charlotte, NC 28277

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :
Elbie D. Wallace, Jr. :
Application No. 09/852,867 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 3077 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 4, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 7, 2006. A Notice of Abandonment was mailed on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3629 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.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/852,867	05/10/2001	Elbie D. Wallace JR.	

CONFIRMATION NO. 5149

POA ACCEPTANCE LETTER

25768
F. RHETT BROCKINGTON
10613 KENNEL LANE
CHARLOTTE, NC 28277

Date Mailed: 12/10/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/24/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kainabinet/

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

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
09/852,867	05/10/2001	Elbie D. Wallace JR.	3077

CONFIRMATION NO. 5149

POWER OF ATTORNEY NOTICE

22474
CLEMENTS WALKER
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

Date Mailed: 12/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/24/2007.

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

/kainabinet/

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

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

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
George M. Savagle, et al.	:	
Application No. 09/852,880	:	DECISION ON PETITION
Filed: May 10, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FEM-0051	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application 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) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The 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. 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, Rev. 2, May 2004, Reference to Prior Application. The amendment filed November 12, 2004 fails to state the relationship of Application No. 08/548,315, filed November 1, 1995, to this application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application 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 Marianne Jenkins at (571) 272-3223.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
George M. SAVAGLE et al. :
Application No. 09/852,880 : DECISION ON PETITION
Filed: May 10, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FEM-0051 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application 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) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The 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. 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, Rev. 2, May 2004, Reference to Prior Application. The amendment filed November 14, 2005 fails to state the relationship of Application No. 08/548,315, filed November 1, 1995, to this application. Office records indicate that PCT/US96/17396 is a continuation of Application No. 08/548,315, which claims the benefit of U.S. provisional Application No 60/006,408.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application 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

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

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

MAILED

SEP 22 2005

Technology Center 2100

In re Application of:
Mary Susan Huhn EUSTIS
Application No. 09/852,882
Filed: May 10, 2001
For: DYNAMIC PROCESSING METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 24, 2005 and the Supplemental Request To Withdraw from Representation filed August 24, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 10.40(a) 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 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
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 26 2006

OFFICE OF PETITIONS

In re Application of :
Mary Susan Huhn Eustis :
Application No. 09/852,882 : DECISION ON PETITION
Filed: May 10, 2001 : TO WITHDRAW
Attorney Docket No. 03243-010001 : 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 24, 2005.

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 Charles Hieken on behalf of all attorneys of record who are associated with the firm of Fish & Richardson P.C.

All attorneys/agents associated with the of Fish & Richardson P.C. have been withdrawn.

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

All future correspondence will be directed to the sole inventor, Mary Susan Huhn Eustis, at the address indicated below.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Mary Susan Huhn Eustis
Wintergreen Research, Inc.
6 Raymond Street
Lexington, MA 02173

cc: Charles Hicken
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY
26 WEST 61 STREET
NEW YORK, NY 10023

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Yaron, Caspi, et al. :
Application No. 09/852,891 : DECISION ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. U 013454-0 :

This is a decision in response to the petition, filed August 31, 2007 and renewed on October 24, 2007, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 25, 2006, which set a shortened statutory period for reply of two (2) months. Accordingly, a reply was due on or before November 27, 2006, November 25, 2006 was a Saturday. A Notice of Abandonment was mailed on August 20, 2007.

Petitioner states that a reply was in fact timely filed. Petitioner explains that the response was directed to the incorrect application number shown on the returned postcard receipt. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on November 29, 2006 of "AMENDMENT TRANSMITTAL AND RESPONSE TO OFFICE ACTION MAILED September 25, 2006".

A copy of the previously submitted reply accompanied the petition filed August 31, 2007. It is noted that the copy of the amendment transmittal includes a certificate of mailing under 37 CFR 1.8 dated November 27, 2006 and that the wrong application number was cited. Nevertheless, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and it was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the correct application.

The papers acknowledged as having been received in the USPTO on November 29, 2006, are not of record in the application file and have not, to date, been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that in view of the Certificate of Mailing under 37 CFR 1.8 dated November 27, 2006, the response was timely received in the USPTO but lost after receipt thereof.

The copy of the reply supplied on August 31, 2007 will be accepted in place of the reply shown to have been received by the USPTO on November 29, 2006.

This application is being referred to Technology Center AU 2624 or appropriate action in the normal course of business on the reply received with petition filed August 31, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
INFINEON
P O BOX 10395
CHICAGO, IL 60610

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Alvin P. Short :
Application No. 09/852,899 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 10808/181 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 26, 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) was obtained. An Advisory action was mailed February 19, 2004 indicating that the reply filed on August 26, 2003 failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on September 26, 2003.

Receipt is acknowledged of the Amendment filed December 27, 2004, with the instant petition.

The Power of Attorney and Change of Correspondence Address has been accepted and recorded.

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

The application matter is being forwarded to Technology Center 2800, Art Unit 2814 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

OIPE JC68
MAY 2 8 2002
PATENT & TRADEMARK OFFICE

#8 03CO
BOX SEQ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Veronica Brockhurst et al.
Filed:	May 9, 2001
For:	AN ASSAY
Serial No.:	09/852,903
Group Art Unit:	Unknown
Examiner:	Unknown
Atty Dkt:	DIAT:003

Pursuant to 37 C.F.R. 1.8, I certify that this correspondence is being deposited with the U.S. Postal Service in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on the date below:

5-21-02 Debbie Ferrara
Date Name

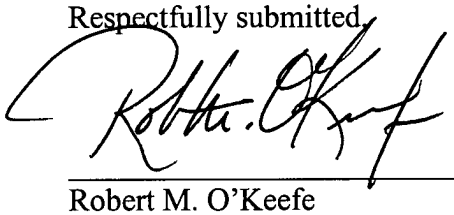
RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURE

Dear Sir:

In response to the attached Notice dated February 5, 2002, enclosed is a diskette with a substitute computer readable form copy of the "Sequence Listing." The content of the sequence listing information recorded in computer readable form is identical to the written sequence listing and does not include new matter.

The examiner is invited to contact the undersigned at the phone number indicated below with any questions or comments, or to otherwise facilitate expeditious and compact prosecution of the application.

Respectfully submitted,



Robert M. O'Keefe
Registration No. 35,630
Attorney for Applicants

O'KEEFE, EGAN & PETERMAN
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, Texas 78746
(512) 347-1611
FAX: (512) 347-1615

MAY 2 8 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/852,903	05/09/2001	Veronica Brockhurst	DIAT:003

CONFIRMATION NO. 4772

FORMALITIES LETTER

OC000000007422148

O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

Date Mailed: 02/05/2002

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

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

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

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

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

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

Seen II $
Box SEQ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC63
DEC 2 6 2001
PATENT & TRADEMARK OFFICE

In re Application of: Veronica BROCKHURST et al.

Filed: May 9, 2001

For: AN ASSAY

Serial No.: 09/852,903

Group Art Unit: 1623

Examiner: Unknown

Atty Docket No.: DIAT:003

Pursuant to 37 C.F.R. 1.8, I certify that this correspondence is being deposited with the U.S. Postal Service in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on the date below:

12-13-01 Marty Bowen
Date Name

Assistant Commissioner For Patents
Washington, D.C. 20231

Dear Sir:

Please note that the inventorship in the originally filed papers was incorrect. The correct inventors are Veronica Brockhurst; Peter Timms; Lindsay Wolter; Ross Barnard; and Philip Morrison Giffard. Both Veronica Brockhurst and Philip Morrison Giffard were named inventors in the original papers.

This application is entitled to small entity status.

Transmitted herewith for filing are:

☐ New Patent Application consisting of __ pages

☐ Continued Prosecution Application (37 CFR §1.53(d)) -- The parent application is USSN _____ filed on _____. The prior Examiner was _____ in Group Art Unit _____.

☒ Response to Notice to File Missing Parts - Part 2 copy (2 pgs)

☒ Assignment and Recordation Cover sheet (4 pgs)

☒ Inventor's Declaration (4 pgs)

- ☒ Statement Under 37 CFR §3.73(b) and §3.71 & POA (3 pgs)
- ☐ Information Disclosure Statement
- ☒ Petition for a three (3) month extension of time
- ☐ Response to Office Action
- ☒ Preliminary Amendment
- ☐ Formal Drawings (Figs , sheets)
- ☐ Informal Drawings
- ☐ Notice of Appeal
- ☒ Diskette containing sequence listing. Note: The sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing.
- ☒ Check(s) in the amount of $872; $40; & $460 (small entity fee)
- ☒ The Commissioner is authorized to deduct any requisite fees under 37 CFR 1.16 to 1.21 from, or deposit any credits to, Deposit Account No. 10-1205/DIAT:003, including any concurrent or future required extension of time fees.
- ☒ Postcard. Please date stamp and mail this postcard to acknowledge receipt of the enclosed documents.
- ☒ Other: Request for Priority (2 pgs), along with a certified copy of PCT/AU01/00526
- ☒ In accordance with 37 CFR 1.136(a)(3), the Commissioner is authorized to treat any concurrent or future reply that requires a petition for an extension of time under 37 CFR 1.126(a) to be timely, as incorporating a petition for extension of time for the appropriate length of time, and the Commissioner is authorized to deduce any requisite fees under 37 CFR 1.16 to 1.21 from Deposit Account No. 10-1205/DIAT:003.

FEE CALCULATION:

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	Total Claims (37 CFR 1.16(e))	38 - 20 =	18	x $ 18.00	$ 324.00
	Independent Claims (37 CFR 1.16(b))	8 - 3 =	5	x $ 84.00	$ 420.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			x $ 270.00	$
				Basic Fee (37 CFR 1.16(a))	$ 740.00
			Total of above Calculations =		$ 1484.00
	Reduction by 50% for filing by Small Entity (Note: 37 CFR 1.9, 1.27, 1.28)				$ 742.00
	Surcharge for submission of Response to Missing Parts if applicable ($130)				$ 130.00
				TOTAL (Check #1) =	$ 872.00
	ASSIGNMENT FEE ($40)				$ 40.00
				TOTAL (Check #2) =	$ *40.00*

The Examiner is invited to contact the undersigned at 512-347-1611 with any questions or comments, or to otherwise facilitate expeditious prosecution of the application.

Respectfully submitted,

Robert M. O'Keefe
Registration No. 35,630
Attorney for Applicant

O'KEEFE, EGAN & PETERMAN, L.L.P.
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, Texas 78746
512-347-1611
512-347-1615 (Fax)

OIPE JC63 DEC 26 2001 PATENT & TRADEMARK

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
09/852,903	05/09/2001	Philip Morrison Giffard	DIAT:003

CONFIRMATION NO. 4772

FORMALITIES LETTER

OC000000006294848

O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

#3

01/02/2002 NMOHAMM1 00000001 09852903
01 FC:205 65.00 OP

Date Mailed: 07/13/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

Adjustment date: 01/02/2002 NMOHAMM1
12/28/2001 NMOHAMM1 00000024 09852903
04 FC:105 -130.00 OP

FILED UNDER 37 CFR 1.53(b)

Replp. Ref: 01/02/2002 NMOHAMM1 0016175600
PAM:101205 Name/Number:09852903
FC: 704 $65.00 CR

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 $1300.
  - **$630** for **35** total claims over 20.
  - **$400** for **5** independent claims over 3 .
  - **$270** for multiple dependent claim surcharge.

12/28/2001 NMOHAMM1 00000024 09852903
01 FC:201 370.00 OP
02 FC:203 162.00 OP
03 FC:202 210.00 OP
04 FC:105 130.00 OP

- 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 $ 2140.**

- 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 <u>MUST</u> be returned with the reply.

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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
09/852,903	05/09/2001	Veronica Brockhurst	DIAT:003

CONFIRMATION NO. 4772

O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

FORMALITIES LETTER

OC000000008368831

Date Mailed: 06/27/2002

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

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

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/852,903	05/09/2001	Veronica Brockhurst	DIAT:003

CONFIRMATION NO. 4772

O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

PETER

FORMALITIES LETTER

OC000000008859943

Date Mailed: 09/26/2002

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

Filing Date Granted

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).

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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

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

BJE

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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 :
Silviu Borac :
Application No. 09/852,906 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. MENT-060 :

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 July 11, 2001 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[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 September 12, 2001. Accordingly, a Notice of Abandonment was mailed October 23, 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]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, 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

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 5

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

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of :
Debra Sue Caswell et al :
Application No. 09/852,940 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 8082M :

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 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 11, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 12, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1440 extension of time submitted with the petition on December 23, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

CONLEY ROSE PC
P O BOX 3267
HOUSTON, TX 77253-3267

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
David A. Sirbasku :
Application No. 09/852,958 : DECISION GRANTING PETITION
Filed: May 10, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1944-00201 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed October 3, 2003, 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 November 4, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election to the restriction requirement and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of October 3, 2003 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 1642 for appropriate action to the reply received June 15, 2004.

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

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MAY 23 2006

OFFICE OF PETITIONS

Edwin S. Flores
Chalker Flores, LLP
2711 LBJ Freeway, Suite 1036
Dallas, TX 75234

In re Application of :
SIRBASKU : DECISION ON PETITION
Application No.: 09/852,958 :
Filed: May 10, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: BTHO:1006 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed March 03, 2005, which set a shortened statutory period for reply of three (3) months. While a reply was filed on May 27, 2005, that reply was not proper as indicated by the Notice of Abandonment mailed October 19, 2005. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on June 04, 2005.

The present 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 response to the Office action mailed March 03, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of March 03, 2005 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1642.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
David A. Sirbasku :
Application No. 09/852,958 : DECISION ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 7219.007 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency 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 June 14, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 15, 2006. A Notice of Abandonment was mailed on February 28, 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 does not satisfy item (1). In this regard, it is noted that the RCE submitted with the petition is dated July 7, 2006 and references a previous submission under 37 CFR 1.114. As the final rejection was mailed on June 14, 2006 and no reply/amendment was filed after the mailing thereof or prior to the RCE dated July 7, 2006, the RCE is improper since a submission responsive to the June 14, 2006 final Office action has not submitted. The only previous submission would have been filed on December 27, 2005, which was the subject of the final rejection of July 14, 2006. Accordingly, an RCE, along with a submission under 37 CFR 1.114 or which properly references a previous submission, such as the submission of December 14, 2006, should be submitted in order for the RCE to be considered to have a proper submission.

It is noted that the RCE filed with the petition was not accompanied by the $395 fee therefor. However, while Office finance records for this file disclose receipt of a $395 RCE fee on December 14, 2006, the record fails to show that an RCE was in fact filed on that date. Therefore, as no RCE was filed, the $395 fee submitted on December 14, 2006 will be applied towards any future RCE.

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.**

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS TX 75201

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OFFICE OF PETITIONS

In re Application of :
David A. Sirbasku :
Application No. 09/852,958 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 7219.007 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the final Office action mailed June 14, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under 37 CFR 1.136(a). Accordingly, by operation of law, the above-identified application became abandoned on December 15, 2006.

The petition decision mailed November 9, 2007 dismissed the petition under 37 CFR 1.137(b) filed July 16, 2007 for failure to provide the required proper response under 37 CFR 1.137(b) (1).

The instant renewed petition includes a Request for Continued Examination dated December 13, 2007 which identifies a "previously submitted" amendment, that amendment being filed December 14, 2006. It is noted the Request for Continued Examination form indicates an "Enclosed" amendment but it appears petitioner used this as a general enclosure listing as the "Petition to Revive" is set forth as the enclosed paper.

The renewed 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 $810 filing fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of June 14, 2006 is accepted as having been unintentionally delayed.

The filing fee for the Request for Continued Examination of $810 is charged to petitioner's deposit account No. 232426 as authorized by Willaim Ramey, III.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 1642 for appropriate action on the merits.

Chris Bottoff

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ted M. Cannon
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

MAILED

OCT 1 3 2005

Technology Center 2100

In re Application of:
Michael Tolson, et al.
Application No. 09/852,963
Filed: May 8, 2001
For: ARCHITECTURE FOR A SYSTEM OF PORTABLE INFORMATION AGENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 01, 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 August 01, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM

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

MR. CHRISTOPHER JOHN ROURK
JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS TX 75202

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
Michael Tolson et al. :
Application No. 09/852,963 : ON PETITION
Filed: May 8, 2001 :
Attorney Docket No. 10127.00032 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 9, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 17, 2006 for failure to timely reply to the final Office Action mailed November 16, 2005, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed on July 28, 2006.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2154 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Michael Tolson et al :
Application No. 09/852,971 : NOTICE
Filed: May 8, 2001 :
Attorney Docket No. 807-000110US :

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

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

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

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

This file is being forwarded to Technology Center AU 2154.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Irvine, CA 92614

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AUG 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Michael TOLSON, et al.
Application No. 09/852,971
Filed: May 08, 2001
For: METHOD AND APPARATUS FOR A PORTABLE INFORMATION AGENT

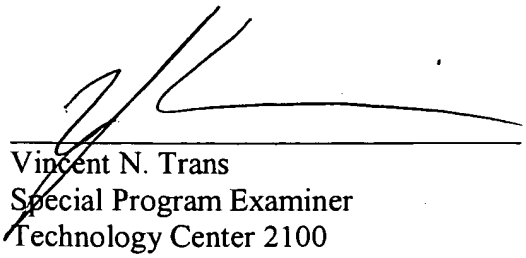
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 1, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) will continue to be addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. CHRISTOPHER JOHN ROURK
JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS TX 75202

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MAR 3 1 2008

In re Application of :
Michael TOLSON et al. :
Application No. 09/852,971 : DECISION ON PETITION
Filed: May 08, 2001 :
Attorney Docket No. **101217.00030** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 09, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 06, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 07, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2753.

This application is being referred to Technology Center AU 2154 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS, TX 75202

Mail Date: 04/21/2010

Applicant	: Michael Tolson	: DECISION ON REQUEST FOR
Patent Number	: 7577700	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/852,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1892** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Irvine, CA 92614

MAIL

AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Michael TOLSON, et al.
Application No. 09/852,979
Filed: May 08, 2001
For: METHOD AND APPARATUS FOR BUSINESS APPLICATION OF A PORTABLE INFORMATION AGENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 1, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) will continue to be addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

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

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JACKSON WALKER LLP
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DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of :
Michael TOLSON et al. :
Application No. 09/852,979 : DECISION ON PETITION
Filed: May 08, 2001 :
Attorney Docket No. **101217.00031** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 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, January 27, 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 April 28, 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) 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2155 for appropriate action on the concurrently filed amendment.

David Buce
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

JUL 23 2003

In re Application of : DECISION ON PETITION
Stephen R. Welch :
Application No. 09/852,996 :
Filed: May 10, 2001 :
Attorney Docket No. 4004022.0026

This is a decision on the petition filed by facsimile transmission on June 25, 2003 by which petitioner requests withdrawal of the examiner's holding that the application stands abandoned for failure to timely file a proper reply to the Office letter dated December 20, 2002. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is denied.

Petitioner concedes that no reply to the outstanding Office letter was filed within the statutory period set by 35 USC § 133, this period having expired on June 20, 2003.[1] Petitioner argues that during a telephone interview, the examiner in charge of the application stated that the Office letter dated December 20, 2002 was in error and that petitioner should "ignore the action", and a new action would be forthcoming.

The examiner has now made of record an interview summary in which he states that he does not recall having advised petitioner to ignore the Office letter in question and to not file a reply thereto. It is clear, therefore, that at best, there is doubt on this issue. It is for this very reason that all Office business should be conducted in writing, and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.[2] The examiner was, and remains, without authority to waive either 35 USC § 133 or the implementing regulation.[3] Accordingly, there is simply no basis to withdraw the holding of abandonment, which holding is mandated both by 35 USC § 133 and 37 CFR 1.135. It appears that petitioner's proper course is to petition to revive pursuant to 37 CFR 1.137.

---

[1] A response was filed by facsimile transmission concurrently with the petition, and the file contains an authorization to charge any necessary 37 CFR 1.17 fees which include fees for extensions of time under 37 CFR 1.136(a), but this response cannot be accepted as timely since the last date for filing a reply to the Office letter in question would have been June 20, 2003.

[2] See 37 CFR 1.2

[3] See 37 CFR 1.135(a) which states that "[I]f an applicant of a patent application fails to reply with the time period provided under § 1.134 and § 1.136, the application will become abandoned *unless an Office action indicates otherwise.*" (Emphasis supplied.)

As an alternative to filing a petition under 37 CFR 1.137, petitioner is entitled to file a request for reconsideration of this decision. Any such request must be filed within two months of the date of this decision. See 37 CFR 1.181(f). The application is being returned to storage as an abandoned file.

PETITION DENIED.

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

Jack Shore
Much, Shelist, Freed, Denenberg, Ament &
Rubenstein, PC
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

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SEP 15 2003

Paper No. 12

In re Application of
Stephen R. Welch
Application No. 09/852,996
Filed: May 10, 2001
Attorney Docket No. 40040022.0026

: DECISION ON REQUEST
: FOR RECONSIDERATION

This is a decision on the request for reconsideration filed on August 1, 2003 by which petitioner requests grant of the petition originally filed on June 25, 2003 so that the examiner's holding of abandonment would be withdrawn. No fee is required for the request for reconsideration.

The request for reconsideration is granted to the extent that the original Decision on Petition ("Decision") dated July 23, 2003 has been reconsidered in light of the record and the request for reconsideration, but, for the reasons that follow, is denied with respect to making any change in the holding of the original Decision.

In the request for reconsideration, petitioner again argues that the examiner's outstanding Office Action (paper No. 4) was erroneous as having included a rejection that was based upon a document not qualifying as prior art. Petitioner also argues that there was an oral agreement to that the document was not prior art about which there was no "disagreement or doubt". (Emphasis is petitioner's).

As noted in the original Decision, the record shows no evidence of any agreement upon the part of the examiner to do anything with this application. Specifically, the examiner does not recall advising petitioner to fail to reply to the outstanding Office action. Petitioner has provided no evidence to the contrary.

As also noted in the original Decision, the examiner was without authority to waive the provisions of 35 USC § 133 or 37 CFR 1.135(a), or, for that matter, of 37 CFR 1.2. Petitioner may not have doubted that a particular document did not qualify as prior art, or what petitioner wanted to have the examiner do, but that simply does not excuse petitioner from complying with 35 USC § 133 and regulations that implement the statute and that required the filing a proper and timely reply to paper No. 4.

There is no basis provided by the record or in the petitions for withdrawing the holding of abandonment under 37 CFR 1.181. Mistaken positions are frequently taken during prosecution of patent applications, sometimes by the examiner and sometimes by counsel. There is no question of "embarrassment" attaching to correction of such errors during the prosecution of the application. Failing to reply to an outstanding Office action to spare the examiner "embarrassment" is simply not a course of action that is permitted by the statute or by the regulations. It appears that petitioner's remedy in this matter is to file a petition to revive pursuant to 37 CFR 1.137, which petition must include a complete reply to paper No. 4.

Request for reconsideration DENIED.

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

Jack Shore
Much, Shelist Freed, Denenberg, Ament &
Rubenstein, PC
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

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COMMISSIONER FOR PATENTS
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Paper No. 15

Much Shelist
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

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NOV 25 2003
OFFICE OF PETITIONS

In re Application of :
Stephen R. Welch :
Application No. 09/852,996 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 4022.026 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 20, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2003.

The application file is being forwarded to Technology Center AU 3722 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD F. JAWORSKI
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
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OFFICE OF PETITIONS

In re Application of
Asaf Tamir et al
Application No. 09/853,017
Filed: May 10, 2001
Attorney Docket No. 452/65048

: 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 June 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 10, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was

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submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center Art Unit 2655 for appropriate action on the amendment filed June 21, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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

ATTACHMENT: Corrected Filing Receipt

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 26 2006

OFFICE OF PETITIONS

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

In re Application of :
Ahmad R. Sajadi et al :
Application No. 09/853,035 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 2316.1460US01 :

This is a decision on the petition, filed July 24, 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 February 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

Paper No. _____

Date : July 26, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Ahmad R. Sajadi et al
Application No. :09/853,035
Filed :May 10, 2001

The above-identified application has been assigned Patent No. 7,088,820 and an issue date of August 8, 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 August 8, 2006:

"All reference to Patent No. 7,088,820 to Ahmad R. Sajadi et al of Minnesota for SPLITTER ASSEMBLY FOR A TELECOMMUNICATIONS SYSTEM appearing in the Official Gazette of August 8, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W., SUITE 400
WASHINGTON, D.C. 20036-5339

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OFFICE OF PETITIONS

In re Application of :
Yukihiro Watanabe et al :
Application No. 09/853,038 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. P100725-00040

This is a decision on the petition, filed November 8, 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 7, 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 3679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Angelo J. Bufalino
VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LaSalle Street
Chicago, IL 60601

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OFFICE OF PETITIONS

In re Application of Dee :
Application No. 09/853,094 : Decision on Petition
Filing Date: May 9, 2001 :
Attorney Docket No. 36861.00.0006 :

This is a decision on the petition under 37 CFR 1.181, filed February 10, 2006, to withdraw the holding of abandonment.

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 3, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 4, 2005. A Notice of Abandonment was mailed on June 7, 2005.

Petitioner contends a reply and request for an extension of time were filed on May 9, 2005 (certificate of mailing date of May 3, 2005). Petitioner has supplied a copy of the originally filed papers and a postcard receipt. The evidence of record is sufficient to establish petitioner filed a timely reply to the non-final Office action.

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

The extension of time fee of $510 was not previously charged to petitioner's deposit account due to the loss of the originally filed papers. Therefore, the Office has charged $510 to petitioner's deposit account for the three-month extension of time.

Technology Center Art Unit 3629 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
Washington, D.C. 20231

Paper No. 5

PAUL J. FARRELL, ESQ.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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OCT 0 4 2001

OFFICE OF PETITIONS

In re Application of	:	
Moon-Jung Ko	:	DECISION DISMISSING
Application No. 09/853,102	:	PETITION
Filed: 10 May, 2001	:	
Atty's Docket No. 678-614(P97	:	

This is a decision on the petition filed on 25 July, 2001, requesting that the above-identified application, including Figure 8 described in the specification, be accorded a filing date of 10 May, 2001.

The petition is **DISMISSED**.

On 10 May, 2001, the application was filed.

On 6 July, 2001, Initial Patent Examination Division mailed a Notice of Omitted Items in a Provisional Application stating that the application had been accorded a filing date of 10 May, 2001, but that Figure 8 described in the specification appeared to have been omitted.

In response, on 25 July, 2001, the present petition and a petition fee of $130.00 were filed. Petitioners argue that Figure 8 was filed with the other application papers on 10 May, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). Petitioners state that a postcard receipt showing receipt of nine (9) sheets of drawings is enclosed.

A review of the official file reveals that a copy of petitioner's postcard receipt is not located among the papers filed on 25 July, 2001. The petition is therefore dismissed. Petitioner should file a renewed petition accompanied by the postcard

receipt and a copy of Figure 8 said to have been filed on 10 May, 2001, but subsequently lost in the U.S. Patent and Trademark Office.

Additionally, the declaration of Maureen Bitz filed with the present petition and attesting to the filing of Figure 8 with the other application papers filed on 10 May, 2001, by itself is not considered persuasive evidence that Figure 8 was in fact filed on 10 May, 2001. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

A request for reconsideration (no further petition fee is required) must be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.[1] **This two month period is not extendable under 37 CFR 1.136(a)**. If a timely petition is not filed the original disclosure will include only those papers present in the PTO on the date of deposit.

The application will be retained in the Office of Petitions for a period of two (2) months to await petitioners' reply to this decision. If no renewed petition is timely filed, the application will be returned to the Office of Initial Patent Examination for further processing using only the papers present in the USPTO on the date of deposit.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

---

[1] 37 CFR 1.181(f).

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DRW 11-01

Paper No. 7

PAUL J. FARRELL, ESQ.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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DEC 17 2001

OFFICE OF PETITIONS

In re Application of	:	
Moon-Jung Ko	:	DECISION GRANTING
Application No. 09/853,102	:	PETITION
Filed: 10 May, 2001	:	
Atty's Docket No. 678-614(P97	:	

This is a decision on the renewed petition filed on 17 October, 2001, requesting that the above-identified application, including Figure 8 described in the specification, be accorded a filing date of 10 May, 2001.

The petition is **GRANTED**.

On 10 May, 2001, the application was filed.

On 6 July, 2001, Initial Patent Examination Division mailed a Notice of Omitted Items in a Provisional Application stating that the application had been accorded a filing date of 10 May, 2001, but that Figure 8 described in the specification appeared to have been omitted. The petition filed on 25 July, 2001, was dismissed on 4 October, 2001.

In response, on 17 October, 2001, the present renewed petition was filed. Petitioner argues that Figure 8 was filed with the other application papers on 10 May, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied on 17 October, 2001. The postcard receipt shows an Office date stamp of 10 May, 2001, and acknowledges receipt of, *inter alia*, nine (9) sheets of drawings. Petitioner requests that the application, including one (1) sheet of drawings containing Figure 8, be accorded a filing date of 10 May, 2001.

A review of the record reveals that eight (8) sheets of drawings containing Figures 1A-B and 2-7 are located among the application papers deposited on 10 May, 2001. However, the evidence is convincing that the application papers deposited on 10 May, 2001, included nine (9) sheets of drawings containing Figures 1A-B and 2-8. Therefore, the application, including one (1) sheet of drawings containing Figure 8, is entitled to a filing date of 10 May, 2001.

The "Notice" mailed on 6 July, 2001, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded.

The application will be processed and examined using the copy of one (1) sheet of drawings containing Figure 8.

After the mailing of this decision, the $130.00 petition fee paid on 25 July, 2001, will be refunded to counsel's deposit account, No. 04-1121.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 10 May, 2001, using the application papers filed on 10 May, 2001, and the copy of one (1) sheet of drawings containing Figure 8 supplied on 17 October, 2001.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.

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

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Paper No. 17

St. Onge Steward Johnston & Reens
986 Bedford Street
Stamford, CT 06905-5619

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MAR 29 2004

OFFICE OF PETITIONS

In re Application of :
James R. Richard :
Application No. 09/853,104 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 01478-P0006B :
GSW/TMO/DC

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Final Rejection mailed June 4, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 5, 2004.

The application file is being forwarded to Technology Center AU 3765 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

KING & SPALDING
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

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SEP 25 2002

Technology Center 2100

In re Application of: Christopher D. Hancock)
Application No. 09/853,109)
Filed: May 10, 2001)
For: SYSTEM AND METHOD FOR CREATING WEB PAGES WITH WORLD PROCESSING TEMPLATES) **DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

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

DECISION ON PETITION
ROUTING SLIP
TC 2100

Application No.: 09/853,109 Art Unit: 2176

For Director's Secretary:

☑ Granted ☐ Denied ☐ Dismissed

☐ Decision to be reviewed and signed by Director

☑ Mail Decision & enter decision in Petition Database

☐ Enter Change of Address in PALM

☑ Enter Paper Nos. 3 and the decision in PALM

☑ Other PLEASE FORWARD FILE TO CENTRAL FILES

For Tech Support Staff and/or LIE:

☐ Process and enter Paper Nos.

☐ Charge fee to D.A. No.

☐ Other

☐ Forward file to

Questions should be directed to:

SPRE No. 1	SPRE No. 2	SPRE No. 3
Vin Trans SPRE 2100 PK2-2D16A 305-9750	Pinchus Laufer SPRE 2100 PK2-2D16B 306-4160	Josie Ballato SPRE 2100 PK2-2D16C 308-0269

Routing Slip Printed On: Monday, September 23, 2002 2:13:26 PM

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MAILED Paper No. 6

SEP 09 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE NM 87125-6927

In re Application of :
LEMLEY, BRAD :
Application No. 09/853,126 :
Filed: May 9, 2001 :
For: **INTEGRAL NAVIGATION KEYS FOR A MOBILE HANDSET** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 17, 2003.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the request are granted the request for withdraw. Andrea L. Mays remains of record.

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

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

cc: DAVID HUFFAKER, ESQ.
KYOCERA WIRELESS CORPORATION
10300 CAMPUS POINT DRIVE
SAN DIEGO, CA 92121

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Paper No. 18

MAIL

JUN 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of
Yamaguchi, et al.
Application No. 09/853,158
Filed: May 10, 2001
For: **THIN-FILM MAGNETIC HEAD A MAGNETISM INTERCEPTING LAYER PROVIDED BETWEEN READ HEAD AND WRITE HEAD**

: DECISION ON PETITION
: TO RESET PERIOD
: FOR REPLY
:

This is a decision on the petition filed on February 23, 2004, requesting that Office communication mailed on October 21, 2003 be re-mailed and for the shortened statutory period for response thereto, be reset.

The petition is **Dismissed as moot**.

Petitioner provided a statement that on February 12, 2004, a routine status check revealed that a final Office action had been mailed from the Office on October 21, 2003. Petitioner further states that they did not receive the Office action and that a search of the file jacket and docket records was performed. Furthermore, Petitioner provided copies of their docket records and referenced the docket records within the petition as to show how the Office communication would have been recorded had it been received.

Had the application gone abandoned, Petitioner's submission would have been sufficient to have revived the application, and had the final Office action mailed October 21, 2003 re-mailed. However, Applicants timely filed via petition for extension of time, a Request for Continued Examination (RCE) on April 21, 2004. The RCE request was filed with a proper submission.

706.07(h) [R-1] Request for Continued Examination (RCE) Practice states in part:

> 37 CFR 1.114. Request for continued examination.
>
> (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
>
> (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
>
> (2) Abandonment of the application; or
>
> (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

V. AFTER FINAL REJECTION

If an applicant timely files an RCE with the fee set forth in 37 CFR 1.17(e) and a submission, the Office will withdraw the finality of any Office action to which a reply is outstanding and the submission will be entered and considered. See 37 CFR 1.114(d). If the application is under final rejection, a submission meeting the reply requirements of 37 CFR 1.111 must be timely received to continue prosecution of an application. In other words, the mere request for, and payment of the fee for, continued examination will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. [emphasis added]

Therefore, given that Applicants timely filed a proper RCE request, the petition to re-mail the final Office action of October 21, 2003 is moot. The finality of that Office action is withdrawn in response to the RCE request.

The application will be forwarded to TC2600's Technical Support Staff for entry of the RCE, submission and supplemental submission filed on May 7, 2004. From there the application will be forwarded to the examiner for action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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WASHINGTON, D.C. 20231
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HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

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JAN 1 4 2003

OFFICE OF PETITIONS

Applicant: Ruben et al.
Appl. No.: 09/853,161
Filing Date: May 11, 2001
Title: 28 HUMAN SECRETED PROTEINS
Attorney Docket No.: PZ003P3
Pub. No.: US 2002/0076756 A1
Pub. Date: June 20, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 13, 2002 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication omits some of the continuity data on the front page of the published application. Applicant argues that the mistake is material because the missing priority data affects the use of the published application as prior art under 35 U.S.C. § 102(e), as a member of the public would be unable to determine the correct effective date of the publication as a reference.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the continuity claim on the first page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The improper priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The first line of the specification contains the entire priority claim with all of the applications listed, thus one can read and understand the content of the application and properly use the patent application publication as a prior art reference, because all of the priority data is correctly published.

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

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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.

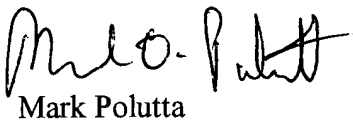
The application is being forwarded to Technology Center 1600 to await further examination in due course.

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

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/04/05

TO SPE OF : ART UNIT **1647**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/853161 6919433

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

Brenda Brumback — SPE
1647 — Art Unit

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 8 2004

FROMMER LAWRENCE & HUAG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

In re Application of	:
Abuljadayel	:
Serial No.: 09/853,188	: PETITION DECISION
Filed: May 9, 2001	:
Attorney Docket No.: 674528-2003.1	:

This is in response to the petition under 37 CFR 1.181(a), filed February 27, 2004, requesting withdrawal of abandonment based on timely filing of a reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed Restriction Requirement to applicant on June 03, 2003, setting a one month shortened statutory period for reply. Applicant replied on 03 October 2003, including a request for three month extension of time and fee therefore. A Notice of Abandonment was mailed to applicant on February 19, 2004, when the reply was not correlated with the file. Applicant in the petition filed on February 27, 2004 states that a reply was submitted on October 03, 2003. Applicant has submitted a copy of reply to the Office action (election), petition for extension of time for three months, a check for the three-month extension period, and the copy of USPTO confirmation of the receipt of the response mailed on October 03, 2003. A review of the above copies shows that the reply was timely filed, and the reply was not timely correlated with the file. In view of the evidence presented, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Jasmine Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

DREIER & BARITZ, LLP
499 PARK AVENUE
20TH FLOOR
NEW YORK, NY 10022

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NOV 0 6 2002

OFFICE OF PETITIONS

In re Application of
Richard Stanley Hajdukiewicz et al
Application No. 09/853,196
Filed: May 11, 2001
Attorney Docket No. 7056.032

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed October 28, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 13, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of February 13, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2161 for examination in due course.

Frances Hicks

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 22 2004
TECHNOLOGY CENTER 3600

Daniel R. McClure
THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P
100 Galleria Parkway, N.W., Suite 1750
Atlanta, GA 30339-5948

In re application of
Thomas D. Petite et al.
Application No. 09/853,216 : DECISION ON REQUEST
Filed: May 11, 2001 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR : ATTORNEY
REMOTELY PROCESSING
RESERVATIONS

This is a decision on the request filed on October 05, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

As to condition A) the request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (A) above. The attorneys listed as being withdrawn do not match those appointed in Customer No. 24504. Therefore, some attorneys originally appointed would still be of record if the request were approved. It does not appear that that is the intent of the request. If only certain attorneys are withdrawing, then it must be so stated. Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

As to condition B) while a reason may be provided by referencing a **specific** portion of 37 CFR 10.40, simply reciting per the request of the current assignee, is insufficient. The fact that the assignee has taken over the prosecution is not acceptable. There is nothing in the file record that indicates the existence of an assignee. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors. A more specific reason or referencing a specific portion of 37 CFR 10.40(c), is required for approval

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

KJD/slb:10/13/04

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Paper No. 11

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Geoffrey S. Strongin :
Application No. 09/853,226 :
Filed: May 11, 2001 :
Attorney Docket No. 2000.039300/TT3766 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 5, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 17, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2131 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2102 L STREET NW
WASHINGTON, DC 20037-1526

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OFFICE OF PETITIONS

In re Application of
Steven T. Harshfield et al
Application No. 09/853,233
Filed: May 11, 2001
Attorney Docket No. MICS:0061

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

This is a decision on the petition, filed June 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHISK LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

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JUN 05 2006
OFFICE OF PETITIONS

In re Application of
Harshfield et al.
Application No. 09/853,233
Filed: May 11, 2001
Attorney Docket No. M4065.0743/P743

DECISION ON PETITION

This is a decision on the petition filed March 9, 2005, to withdraw the holding of abandonment under 37 CFR 1.181 or, in the alternative, a petition under 37 CFR 1.137(b) to revive the application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The application became abandoned on November 26, 2004, for failing to file a timely reply to the Notice of Allowance and Fee(s) Due mailed on August 25, 2004. A Notice of Abandonment was mailed on February 18, 2005.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

On May 11, 2004, petitioners paid the issue fee and the publication fee in response to the First Notice of Allowance mailed on March 9, 2004. On June 17, 2004, petitioners filed 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 was granted by the decision of June 29, 2004, which stated that the application was withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). Furthermore, petitioners were advised that the issue fee paid on May 11, 2004, could not be refunded; however, petitioners could request that it be applied to the issue fee required by a new Notice of Allowance, if the application was again allowed. The decision informed petitioners that the request to apply the issue fee to the new Notice of Allowance could be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b). Lastly, the decision advised petitioners that, whether or not the Notice of Allowance indicated that a fee was due, the Issue Fee Transmittal Form PTOL-85(b) **MUST** be completed and timely submitted to avoid abandonment. Moreover, the Second Notice of Allowance stated in bold language that the PTOL-85(b) (or an equivalent) **MUST** be returned within the period indicated, even if no fee is due, or the application will be regarded abandoned.

In the present petition, petitioners averred that the above-identified application is not abandoned because a timely response was filed on November 23, 2004, in response to the Notice of Allowance. Petitioners explained that telephonic conferences were conducted with the Examiner on November 23, 2004, concerning an erroneous Examiner's Statement for Reasons of Allowance. Petitioners asserted that the Examiner requested that they file a statement noting the error and indicating that the Declarations filed on October 14, 2003, and December 23, 2003, were not Rule 131 or 132 Declarations, respectively. Petitioners further asserted that the Examiner indicated that he would immediately withdraw the application from issue and re-open prosecution to consider the Declarations more fully. Petitioners stated that they submitted a "Confirmation of Telephonic Conferences With Examiner Coleman on November 23, 2004 With Accompanying Comments" via facsimile transmission on November 23, 2004.

The record reveals that on December 10, 2004, the Examiner mailed a "Response to Rule 312 Communication," indicating that the Examiner had considered and entered the amendment under, 37 CFR 1.312 filed on October 25, 2004.

Initially, the Office notes that all business with the USPTO should be transacted in writing pursuant to 37 CFR 1.2. The action of the USPTO will be based exclusively on the written record in the Office. See 37 CFR 1.2 "No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." Id. The Office further notes that "[u]nless applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment." MPEP 1308(I)(A). Lastly, an applicant may file a statement commenting on his position if he disagrees with the reasons for allowance, preferably no later than the payment of the issue fee. See MPEP 1302.14. However, while the Examiner may review and comment upon an applicant's statement, the Examiner has no obligation to do so. Id.

Nevertheless, an applicant of a patent application is required to reply to an Office action within the time period set forth in that action to avoid abandonment of the application. See 37 CFR 1.135. In this instance, the Notice of Allowance (PTOL-85) required petitioners to reply to the Notice by returning the PTOL-85b (or an equivalent)[1] within three months of the mailing date, even if no fee was due, or the application would be regarded as abandoned. Although petitioners paid the issue fee in response to the First Notice of Allowance, petitioners were required to respond to the Second Notice of Allowance of August 25, 2004. Yet, the record indicates that petitioners did not take the appropriate action of returning the PTOL-85B (or an equivalent) within the three-month statutory period. The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

PETITION UNDER 37 CFR 1.137(b)

In the alternative, petitioners requested that the Office revive the application due to unintentional abandonment. The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

[1] The Office does not equate the Response of November 23, 2004, as an equivalent of the PTOL-85B.

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. However, the statement presented 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**.

The Office will charge the Deposit Account for the $1,500.00 petition fee, as authorized.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHISK LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven T. Harshfield et al	:	
Application No. 09/853,233	:	DECISION DISMISSING PETITION
Filed: May 11, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MICS:0061	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 1, 2006, 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 come to the attention of the deciding official's office until September 11, 2006, which is after the issue date of September 5, 2006 of this application. *Note* MPEP § 1308. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The inconvenience caused petitioner in this matter is sincerely regretted. However, 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**. (Emphasis added)

In view of the above, the request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted are unnecessary and will be refunded to petitioner's deposit account in due course.

The Information Disclosure Statement has been placed of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas J. D'Amico
Dickstein Shapiro LLP
1825 Eye Street NW
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMGEN INC.
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE, WA 98119-3105

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Stephen Jaspers et al :
Application No. 09/853,253 : NOTICE
Filed: May 10, 2001 :
Attorney Docket No. 00-30

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 matter is being forwarded to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Keith D. Nelson
Lockheed Martin Corporation
Building 220, Mail Stop A08
P.O. Box 49041
San Jose, CA 95161-9041

In re Application of :
Richard H. Sherman, et. al. :
Application No. 09/853,288 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. PD-00-1016 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed November 3, 2004. A Notice of Abandonment was mailed August 25, 2005.

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

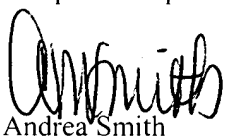
37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 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 Office acknowledges receipt of one (1) sheet of drawing containing Figure 1 filed with the petition on September 28, 2005. Acknowledgement is also given to the $1,590 four (4) month extension of time, filed May 27, 2005. However, in no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of the non-final action. Therefore, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,590 extension of time fee, filed May 27, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner by Treasury Check, in due course.

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

The application file is being referred to Technology Center Art Unit 2137, for review of the amendment filed with the instant petition.

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



Andrea Smith
Petitions Examiner
Office of Petitions

cc: The Law Offices of Kenneth Float
2095 Hwy. 211 NW, #2F
Braselton, GA 30517

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12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 09/853,289 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. 51876P244 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, 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 January 27, 2004. Accordingly, this application became abandoned on January 28, 2004. A Notice of Abandonment was mailed on March 3 , 2004.

This application is being forwarded to Publishing Division for processing into a patent.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 18 2007

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Casaccia, et al. : DECISION ON PETITION
Application No. 09/853,322 :
Filed: May 10, 2001 :
Docket No.: PA010317 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 16, 2007.

This application was held abandoned for failure to timely submit an appeal brief in response to the Notice of Appeal submitted September 12, 2006. Notice of Abandonment was mailed March 12, 2007.

A review of the record reveals that a Notice of Appeal was properly filed September 12, 2006. The appeal brief was due two months thereafter, the period of time being extendible under 37 CFR 1.136. Thus, the period of time for submission of the appeal brief (or other proper reply) was extendible to on or before April 12, 2006. Notice of Abandonment was prematurely mailed March 12, 2007.

Petitioners' arguments have been carefully considered and found convincing. In view of the arguments submitted, 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 Technology Center 2600 for further processing of the request for continued examination (RCE) submitted March 16, 2007.

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

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

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Suzuki :
Application No. 09/853,325 : DECISION ON PETITION
Filed: May 10, 2001 :
Docket No.: 275756US6 :

This is a decision on the petition under 37 CFR 1.181, filed August 14, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned December 20, 2005 for failure to timely submit a properly reply to the non-final Office action mailed September 19, 2005. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 14, 2006.

Petitioner attributes the holding of abandonment to the Office's failure to mail the Office action to the correct correspondence address.

A change of correspondence address was submitted September 8, 2005; non-final rejection was mailed September 19, 2005; the change of correspondence address was entered into the record on September 21, 2005; the non-final rejection was returned to the Office September 22, 2005 via USPS; and a Notice of Abandonment was subsequently mailed.

Petitioner's arguments have been carefully considered and found convincing.

Accordingly, Notice of Abandonment is **WITHDRAWN** and the holding of abandonment is hereby **VACATED**.

This application is being forwarded to Technology Center 2100 for re-mailing of the non-final Office action. The time period for reply will be set in the non-final Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

NOV 0 5 2004

Technology Center 2100

In re Application of:
John Edward ARCHIBALD, et al.
Application No. 09/853,336
Filed: May 10, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM FOR SELECTABLE OR PROGRAMMABLE DATA CONSISTENCY METHODOLOGY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 14, 2004.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

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.

R. Michael Ananian, Esq.
FLEHR HOHBACH TEST &
HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

MAILED

JAN 18 2005

Technology Center 2100

In re Application of:
John Edward Archibald
Application No. 09/853,336
Filed: May 10, 2001
For: SYSTEM, METHOD, AND COMPUTER PROGRAM FOR SELECTABLE OR PROGRAMMABLE DATA CONSISTENCY METHODOLOGY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 20, 2004.

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

The request filed December 20, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Randall J. Bluestone, Esq.
San Jose IP Law – IBM CORPORATION
5600 Cottle Road – L2PA/0142
San Jose, CA 95193

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 5

BROBECK, PHLEGER & HARRISON, LLP
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

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MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Link et al. :
Application No. 09/853,337 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 031926.0009.UTL :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 11, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. 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.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed December 30, 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 January 31, 2003. A Notice of Abandonment was mailed on September 10, 2003.

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). Petitioner failed to include the proper response to the Office action mailed on December 30, 2002. To revive the above-identified application, petitioner must submit a response. A copy of the Office action is enclosed for petitioner's convenience.

The instant petition appears to be on the behalf of the assignee. However, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

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 PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

Enclosure: Restriction (Previously mailed on December 30, 2002)
Statement under 3.73(b) (PTO/SB/96)

CC: GAYLE R. LINK
3162 JOHNSON FERRY ROAD, SUITE 260-624
MARIETTA, GA 30062

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

MAIL

APR 0 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MAREK ALBOSZTA
Lumen Intellectual Property Services
45 Cabot Avenue, Suite 110
Santa Clara, CA 95051

In re Application of:
Robert Edward Fontana Jr. et al.
Application No.: 09/853,345
Filed: May 10, 2001
For: FULLY UNDERCUT RESIST SYSTEMS USING E-BEAM LITHOGRAPHY FOR THE FABRICATION OF HIGH RESOLUTION MR SENSORS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw Rena Kaminsky from Representation filed, February 12, 2002.

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

The request is **GRANTED**.

The following attorney is withdrawn from the record: Rena Kaminsky.
All future correspondences will continue to be directed to the above listed address until otherwise notified by the applicants. Applicants are 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.

Krista Zele
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
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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO CA 94306

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of
Fontana et al. .
Application No. 09/853,345
Filed: May 10, 2001
Attorney Docket No. ARC9-2001-0017US1

: ON PETITION

This is a decision on the petition filed July 21, 2004, captioned under 37 CFR 1.47(a), which is being treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute any declaration filed thereunder.

So construed, the petition is granted to the extent indicated.

37 CFR 1.47 is only applicable where a named inventor cannot be found or located or refuses to execute the oath or declaration required by CFR 1.63, and is immaterial to execution of any other type of oath or declaration . As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration submitted under 37 CFR 1.131 which was executed by less than all the named inventors of the claimed subject matter. Nevertheless, under the facts presented, it is agreed that justice requires waiver of the rules to the extent they require Ms. Lu to declare under 37 CFR 1.131. However, this favorable decision does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors, see In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935), or the procedural constraints on any application that, as here, stands finally rejected.

Telephone inquiries related to this decision should be directed to Petitions Examiner Brian Hearn at (703) 305-1820.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman :
Application No. 09/853,360 :
Filed: May 10, 2001 :
Attorney Docket No. NETAP012 :
Title: SYSTEM AND METHOD FOR CUSTOMIZING AND PROCESSING BUSINESS LOGIC RULES IN A BUSINESS PROCESS SYSTEM :

DECISION ON PETITION
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 May 10, 2001. The Office regrets the extreme delay in issuing this decision.

On May 10, 2001, the application was deposited, identifying Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman as joint inventors. A declaration that was executed by each of the joint inventors save Clinton Hallman was included on filing.

With the instant petition, Petitioner has submitted the petition fee, a statement of facts, and a copy of a letter which was sent to the non-signing inventor.

Petitioner has met requirements (1) and (3) – (5) above. Requirement (2) does not apply.

1A 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, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) 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 and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The petition is **GRANTED** and 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (571) 272-3225. Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Clinton Hallman
1241 Pine Grove Road
Yardley, PA 19067

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman :
Application No. 09/853,360 :
Filed: May 10, 2001 : LETTER
Attorney Docket No. NETAP012 :
Title: SYSTEM AND METHOD FOR CUSTOMIZING AND PROCESSING BUSINESS LOGIC RULES IN A BUSINESS PROCESS SYSTEM :

Dear Mr. Hallman:

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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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JAN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman :
Application No. 09/853,360 :
Filed: May 10, 2001 :
Attorney Docket No. NETAP012 :
Title: SYSTEM AND METHOD FOR CUSTOMIZING AND PROCESSING BUSINESS LOGIC RULES IN A BUSINESS PROCESS SYSTEM :

DECISION ON PETITION
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 May 10, 2001. The Office regrets the extreme delay in issuing this decision.

On May 10, 2001, the application was deposited, identifying Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman as joint inventors. A declaration that was executed by each of the joint inventors save Clinton Hallman was included on filing.

With the instant petition, Petitioner has submitted the petition fee, a statement of facts, and a copy of a letter which was sent to the non-signing inventor.

Petitioner has met requirements (1) and (3) – (5) above. Requirement (2) does not apply.

1A 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, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) 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 and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The petition is **GRANTED** and 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (571) 272-3225. Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

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

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Clinton Hallman
1241 Pine Grove Road
Yardley, PA 19067

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Geoff Grindrod, Oto Slavos, Saigiridhar Kodali, and Clinton Hallman :
Application No. 09/853,360 :
Filed: May 10, 2001 : LETTER
Attorney Docket No. NETAP012 :
Title: SYSTEM AND METHOD FOR CUSTOMIZING AND PROCESSING BUSINESS LOGIC RULES IN A BUSINESS PROCESS SYSTEM :

Dear Mr. Hallman:

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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/20/04

TO SPE OF : ART UNIT 1731 09/853406

SUBJECT : Request for Certificate of Correction on Patent No.: 6701936

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.

See CofC dated 3/22/04 for claims 1 and 3 changes.

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:

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE — **Art Unit** 1731

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-4-06

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/853409 Patent No.: 6995146

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

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

Please check Related App. Data

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Corrected error in serial number 08/397,220.

SPE

1636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

DAVID S. RESNICK
NIXON PEABODY LLP
101 FEDERAL STREET
BOSTON MA 02110

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FEB 04 2003

OFFICE OF PETITIONS

In re Application of :
George Brainard :
Application No. 09/853,428 : DECISION ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. BRA01-NP002 :

This is a decision on the petition filed January 21, 2003, to revive the above-identified application. Petitioner requests revival based upon an unintentional delay in responding to the Office action under 37 CFR 1.137(a).

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

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 6, 2002. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 7, 2002. A Notice of Abandonment was mailed on December 10, 2002.

Petitioner asserts that the delay was unavoidable because Petitioner has not received the June 6, 2002, Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) a proposed response to continue prosecution of the abandoned application, or filing of a continuation application, unless either has been previously filed; (2) the petition fee required by 37 CFR 1.17(l); (3) an adequate verified showing of the cause of unintentional delay; and (4) a terminal disclaimer and fee. This petition lacks items (1) and (3) above.

As to item (1), Petitioner has not provided a response to the Office action.

As to item (3), an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the June 6, 2002 Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received at the correspondence address of record.

Petitioner's deposit account has been charged an additional $30.00 as authorized in the instant petition which represents the balance due for a petition to revive an unintentionally abandoned application.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Office Action of June 6, 2002.

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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Paper No. 13

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BOSTON MA 02110

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
George Brainard :
Application No. 09/853,428 :
Filed: May 10, 2001 :
Attorney Docket No. :
BRA01-NP002 :

This is a decision on the Further Petition filed July 9, 2003, to revive the above-identified application, which is being treated as a Request for Reconsideration of Petition under 37 CFR 1.137(a). Petitioner requests revival based upon an unintentional delay in responding to the Office action under 37 CFR 1.137(a). A three (3) month extension-of-time is requested and is hereby granted.

The petition under is dismissed.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 6, 2002. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 7, 2002. A Notice of Abandonment was mailed on December 10, 2002.

A petition was filed on January 21, 2003, wherein Petitioner asserted that the delay was unavoidable because Petitioner has not received the June 6, 2002, Office action. That petition was dismissed in a Decision mailed February 4, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

The instant petition states that Petitioner was not responsible for this application at the mailing of the Office action on June 6, 2002, but that the file was transferred from Thomas Jefferson University in August 2002 to Petitioner. Petitioner includes an unexecuted statement from a representative of the assignee at the time of the mailing of the June 6, 2002 Office action, Anthony Rowan of Thomas Jefferson University. Petitioner asserts that an executed copy will follow under separate cover. The unexecuted statement avers that Mr. Rowan has reviewed the file of this application "that is in our office; The Office action mailed June 6, 2002 is not in the file;". *Statement from Anthony Rowan* at p.1.

As iterated in the Decision dismissing petition, mailed February 4, 2003, an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Accordingly, the statement from Mr. Rowan must be executed, and a copy of the docket record (or file jacket) 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. This copy must come from Thomas Jefferson University.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 14

DAVID S. RESNICK
NIXON PEABODY LLP
101 FEDERAL STREET
BOSTON MA 02110

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
George Brainard :
Application No. 09/853,428 :
Filed: May 10, 2001 : ON PETITION
Attorney Docket No. :
BRA01-NP002 :

This is a decision on the Further Petition filed July 9, 2003, to revive the above-identified application, which is being treated as a Request for Reconsideration of Petition under 37 CFR 1.137(a). Petitioner requests revival based upon an unintentional delay in responding to the Office action under 37 CFR 1.137(a). A three (3) month extension-of-time is requested and is hereby granted.

The petition under is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 6, 2002. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 7, 2002. A Notice of Abandonment was mailed on December 10, 2002.

A petition was filed on January 21, 2003, wherein Petitioner asserted that the delay was unavoidable because Petitioner has not received the June 6, 2002, Office action. That petition was dismissed in a Decision mailed February 4, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

A Further Petition, filed on July 9, 2003, was dismissed in a Decision mailed February 4, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

With the instant petition, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and

docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

The Notice of Abandonment is hereby withdrawn.

The application file is being forwarded to Technology Center 3739 for re-mailing of the Office action. A new time period for response will be set to run from the mailing date thereof.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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DAVID S. RESNICK
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NIXON PEABODY LLP
BOSTON, MA 02110-2131

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
George Brainard :
Application No. 09/853428 : LETTER
Filing or 371(c) Date: 05/10/2001 :
Attorney Docket Number: :
BRA01-NP002 :

This is a letter in response to the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed August 1, 2006; the "Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003", and "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)". The delay in treating this petition is regretted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 24, 2003, and re-mailed November 7, 2003. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on November 10, 2003, and a Notice of Appeal on May 10, 2004; however, Applicant failed to file a brief in support of Appeal. Since no claims were allowed, the application became abandoned for failure to timely and properly reply to the non-final Office action mailed November 7, 2003, on February 8, 2004.

Applicant files the instant petition, Request for Continued Examination ("RCE"), a "Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003", and "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)".

The petition under 37 CFR 1.137(b)

Applicant has filed a Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003. Because the application became abandoned for failure to timely and properly reply to the November 7, 2003 Office action, and because Applicant is requesting reconsideration of the Office action, a Decision on the petition to revive the application will be held in abeyance pending resolution of Applicant's Request for Reconsideration.

The Application is being referred to Technology Center Art Unit 3739 for consideration of the Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003.

The petition under 37 CFR 1.48(a)

Petitions to correct inventorship under 37 CFR 1.48 are also decided in the Technology Center. Applicant is advised that "Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).requesting reconsideration of the

37 CFR 1.48(a).

Finally, 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.

It is also noted that two addresses appear on the petition. Applicant is advised that this Office does not engage in dual correspondence. See, MPEP 402.10

The Application is being referred to Technology Center Art Unit 3739 for consideration of the Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003.

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

Derek L. Woods
Attorney
Office of Petitions

CC: Patricia Wenger, Esq.
Wenger Law Offices
201 North Jackson Street
Media, PA 19063

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,428	05/10/2001	George Brainard	BRA01-NP002	6772

44321 7590 05/07/2007

PATRICIA A. WENGER
201 NORTH JACKSON STREET
MEDIA, PA 19063

EXAMINER	
GIBSON, ROY DEAN	
ART UNIT	PAPER NUMBER
3739	

MAIL DATE	DELIVERY MODE
~~05/07/2007~~ 5/10/07	PAPER

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

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

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PATRICIA A. WENGER
201 NORTH JACKSON STREET
MEDIA PA 19063

In re Application of:
BRAINARD, GEORGE
Serial No.: 09/853,428
Filed: May 10, 2001
Docket: BRA01-NP002
Title: PHOTORECEPTOR SYSTEM FOR MELATONIN REGULATION AND PHOTOTHERAPY

DECISION ON RECONSIDERATION of LETTER RESTARTING PERIOD of RESPONSE
Mailed Nov. 7, 2003

This is a decision in response to the decision rendered by the Office of Petitions on Jan. 30, 2007 to answer the Request for Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003. The Request is currently considered pursuant to 37 CFR 1.181, and no fee is required.

The Request for Reconsideration is **DISMISSED**.

On Aug. 1, 2006, petitioner filed the Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003. In the Reconsideration, petitioner requests the Office to withdraw the entry of the amendment filed earlier on Jul. 7, 2003. Petitioner believes that such amendment filed on Jul. 9, 2003 was not needed and further requests the examiner to re-send the original Office action based on the originally filed claims 1-19.

The record shows that:

1) On Jun. 6, 2002, the examiner issued a non-final Office action.
2) On Dec. 10, 2002, a Notice of Abandonment was mailed for failure to respond to the Jun. 6, 2002 Office action.
3) On Jan. 21, 2003, petitioner filed a petition to revive based on non-receipt of the Office action mailed Jun. 6, 2002
4) On Feb. 4, 2003, a decision to dismiss the petition filed on Jan. 21, 2003 was mailed because there was insufficient showing of non-receipt of the non-final Office action mailed Jun. 6, 2002.
5) On Jul. 9, 2003, petitioner filed a Further Petition accompanying with evidence of non-receipt of Office action of Jun. 6, 2002. A fully responsive amendment to the Office action of Jun. 2, 2002 was also filed on Jul. 9, 2003. In order to do so,

presumably the applicant obtained a copy of the missing Office action of Jun. 2, 2002.

6) On Jul 31, 2003, the Office of Petitions dismissed the petition again for failure to satisfy the requirements of 37 CFR 1.137(a).

7) Petitioner filed a renewed petition on Sep. 24, 2003 and supplied the missing documents as required in the decision of Jul. 31, 2003.

8) Sep. 30, 2003, Office of Petitions granted the Further Petition filed on Jul. 9, 2003. The application was revived.

9) On Oct. 24, 2003, the examiner re-mailed the non-final Office action of Jun. 2, 2002 without treating the amendment filed on Jul. 9, 2003.

10) A few days later, on Nov. 7, 2003, the examiner realized that an amendment filed on Jul. 9, 2003 was overlooked and issued a supplemental non-final Office action.

11) On Nov. 10, 2003, the applicant mailed a Letter to Examiner and requested the examiner to treat the amendment filed Jul. 9, 2003 with a certificate of mailing date of Nov. 6, 2003.

12) In response to the examiner non-final Office action of Nov. 7, 2003, the applicant on May 10, 2004, filed a Notice of Appeal with three months extension of time.

13) On Jul. 22, 2004, the application became abandoned for failure to file appeal brief.

14) On Aug. 1, 2006, Petitioner filed Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 CFR 1.48(a); Request for Continued Examination; Petition to revive under 37 CFR 1.137(b); and Request for Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003.

15) On Jan. 30, 2007, the Office of Petitions rendered a decision to defer the ruling on the petition to revive and request the TC 3700 to answer the Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003 filed on Aug. 1, 2006.

Discussion and Analysis

In the Request for Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003 filed on Aug. 1, 2006, petitioner alleges and requests that a. the July 7, 2003-filed amendments, remarks and arguments in conjunction with a Petition to Revive an abandoned application were not needed and should not have been entered on September 30, 2003; b. On Nov. 10, 2003 (mailed on Nov. 6, 2003) Applicant filed a Letter to Examiner noting that the Jul. 9, 2003 amendments (mailed by applicant on July 7, 2003), remarks and arguments in conjunction with a Petition to Revive an abandoned application should have been entered on September 30, 2003. However, the July 7, 2003-filed amendments, remarks and arguments in conjunction with a Petition to Revive an abandoned application were not needed and should not have been entered on September 30, 2003; c. Applicants request that the Jul. 9, 2003 amendments (mailed by applicant on July 7, 2003), remarks and arguments in conjunction with a Petition to Revive an abandoned application not be entered; and alternatively, if they were entered, for them to be withdrawn. Petitioner also alleges that the miscellaneous letter of Nov. 10, 2003 (mailed by the applicant on Nov. 6, 2003) and the supplemental non-final Office action were crossed in the

mail. Therefore, it is alleged that the restarting of the action did not occur. Now, petitioner requests that the original office action with 19 pending claims to be re-sent.

Petitioner's request of resending the original Office action with 19 pending claims cannot be granted because the original Office action with 19 claims pending was in fact re-mailed on Oct. 24, 2003 pursuant to the decision rendered by the Office of Petitions on Sep. 30, 2003. Due to the examiner's inadvertence of failure to treat the amendment filed on Jul. 9, 2003, the examiner issued a supplemental complete non-final Office action on Nov. 7, 2003. This action clearly re-started a new period to response. Petitioner now requests that the entry of the amendment filed on Jul. 9, 2003 be removed because the amendment was not needed and should not have been entered. Petitioner did not specify why the amendment was not needed and did not provide any reasons as to why the amendment filed on Jul. 9, 2003 should not have been entered. Petitioner mentions that the miscellaneous letter of Nov. 10, 2003 (mailed by the applicant on Nov. 6, 2003) and the supplemental non-final Office action of Nov. 7, 2003 were crossed in the mail. That the letters crossed in the mail is not probative. Further, petitioner does not explain why her specific request for entry and treatment of this amendment in her Nov.10, 2003 letter is now deemed to have been in error. The Jul. 9, 2003 amendment was already in the file and entered after it was filed. On page one of the Jul. 9, 2003 amendment, the applicant clearly stated that the amendment is " In response to the Office Action of June 6, 2002, please amend the above-identified application as follows". Therefore, the amendment was properly entered at the applicant's request. The request to remove the entry the amendment filed on Jul. 9, 2003 cannot be granted.

It is also noted that in the Request for Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003 filed on Aug. 1, 2006, petitioner did not mention that in response to the non-final Office action mailed on Nov. 7, 2003, a notice of appeal was filed on May 10, 2004. This is a clear indication that the applicant intended to further purse the twice rejected claims 1-3, 5, 6, 11-15 and 17 through appeal process pursuant to 35 USC 134 and M.P.E.P. 1204. Therefore, the notice of appeal is deemed to be a proper response to the non-final Office action mailed on Nov. 7, 2003. Moreover, on Aug. 1, 2006, petitioner filed the current petition to revive the application based on unintentional abandonment under 37 CFR 1.137(b) with a Request for Continued Examination (RCE). The filing of RCE is deemed proper under 37 CFR 1.114 because the application is under appeal.

Finally, Review of the record shows that the Request for Reconsideration of Letter Restarting Period of Response mailed Nov. 7, 2003 was filed on Aug. 1, 2006 which is almost 33 months after the mailing date of the supplemental non-final Office action mailed on Nov. 7, 2003. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. The file is being forwarded to the office of Petitions for consideration of a decision on petition to Revive an Unintentional Abandoned Application Under 37 C.F.R. 1.137(b).

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

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201 NORTH JACKSON STREET
MEDIA PA 19063

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
George Brainard	:	
Application No. 09/853428	:	DECISION ON PETITION
Filing or 371(c) Date: 05/10/2001	:	
Attorney Docket Number:	:	
BRA01-NP002	:	

This is a Decision in response to the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed August 1, 2006; the "Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003", and "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)". The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 24, 2003, and re-mailed November 7, 2003. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on November 10, 2003, and a Notice of Appeal on May 10, 2004; however, Applicant failed to file a brief in support of Appeal. Since no claims were allowed, the application became abandoned for failure to timely and properly reply to the non-final Office action mailed November 7, 2003, on February 8, 2004.

Applicant files the instant petition, Request for Continued Examination ("RCE"), a "Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003", and "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)".

Applicant's request for reconsideration of the Office action

A review of Office records revealed that Applicant filed a Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003. Because the application became abandoned for failure to timely and properly reply to the November 7, 2003 Office action, and because Applicant requested reconsideration of the Office action, a Decision on the petition to revive the application was held in abeyance pending resolution of Applicant's Request for Reconsideration. The Application was referred to Technology Center Art Unit 3739 for consideration of the Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003.

Applicant's Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)

In response to Applicant's Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a), Applicant was advised as to the requirements for a grantable petition to correct inventorship under 37 CFR 1.48.

Decision on Applicant's request for reconsideration of the Office action

In a decision mailed May 10, 2007, this Office dismissed Applicant's request for reconsideration of the Office action.

The petition under 37 CFR 1.137(b)

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

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

As to item (1), Applicant filed a RCE and a "Request for Reconsideration of Letter Restarting Period of Response Mailed on November 7, 2003[1]". However, an applicant cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)).

In this instance, the application became abandoned for failure to timely and properly reply to the non-final Office action, re-mailed November 7, 2003. As such, prosecution of the application is not closed, and the RCE is not a proper reply to the Office action.

The MPEP further provides that "[i]f prosecution in the application is not closed, applicant will be notified of the improper RCE and any amendment/reply will be entered." However, in this instance, Applicant did not file an Amendment responsive to the Office action with the RCE. As such, Applicant has failed to file a reply to the Office action.

In view of the above, the petition is dismissed. Applicant should file a request for reconsideration of petition and include the required reply.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant also filed a "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)", however, the Supplemental Amendment was to add inventor(s) and was not responsive to the office action.

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OFFICE OF PETITIONS

In re Application of	:	
George Brainard	:	
Application No. 09/853428	:	DECISION ON PETITION
Filing or 371(c) Date: 05/10/2001	:	
Attorney Docket Number:	:	
BRA01-NP002	:	

This is a Decision in response to the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed July 16, 2007. The delay in treating this petition is regretted.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 24, 2003, and re-mailed November 7, 2003. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on November 10, 2003, and a Notice of Appeal on May 10, 2004; however, Applicant failed to file a brief in support of Appeal. Since no claims were allowed, the application became abandoned for failure to timely and properly reply to the non-final Office action mailed November 7, 2003, on February 8, 2004.

Applicant filed a petition, Request for Continued Examination ("RCE"), a "Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003", and "Supplemental Amendment, Petition and Fee to add Originally Erroneously Named Inventors in Declaration (37 C.F.R. § 1.48(a)", on August 1, 2006. In a Decision mailed January 30, 2007, Petitioner was advised of the requirements for a grantable petition to correct inventorship under 37 CFR 1.48. The Decision referred Applicant's Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003, to the Examiner. The Request for Reconsideration of Letter Restarting Period of Response Mailed November 7, 2003, was referred to the Examiner, who, in a Decision mailed May 10, 2007, dismissed the request.

The petition under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:

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

Regarding a RCE, an applicant cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)).

In this instance, the application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 24, 2003, and re-mailed November 7, 2003. As such, prosecution of the application is not closed, and the RCE is not a proper reply to the Office action.

The MPEP further provides that "[i]f prosecution in the application is not closed, applicant will be notified of the improper RCE and any amendment/reply will be entered. Thereafter, the application will be forwarded to the examiner for consideration of the amendment/reply under 37 CFR 1.111. MPEP 706.07(h).

In view of the above, the petition to revive the application is granted. The application is being referred to Technology Center Art Unit for consideration of the amendment filed with the petition on July 16, 2007. A refund of the RCE fee has been scheduled via Treasury Check.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

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

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Philip M. Ginsberg et al :
Application No. 09/853,430 : DECISION GRANTING PETITION
Filed: May 10, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-19 :

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 August 1, 2001 [sic, August 2, 2001]. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 14 2008

OFFICE OF PETITIONS

ROPES & GRAY, LLP
PATENT DOCKETING 36/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

In re Application of :
Philip M. Ginsberg, et al. :
Application No. 09/853,430 : DECISION ON PETITION
Filed: May 10, 2001 : TO WITHDRAW
Attorney Docket No. CF/019 : 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 **DISMISSED** as moot.

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 23, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DEAN P. ALDERUCCI
CANTOR FITZGERALD, LP
110 EAST 59TH STREET
6TH FLOOR
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. ____

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

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MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of	:
Martin F. Yanofsky et al	:
Application No. 09/853,450	: DECISION GRANTING PETITION
Filed: May 9, 2001	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 19452A002400	:

This is a decision on the petition, filed March 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 February 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/853,507	05/09/2001	1616	460	E-1507 CON	2	27	1

CONFIRMATION NO. 7165

CORRECTED FILING RECEIPT

OC000000014059612

32215
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

Date Mailed: 10/13/2004

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)

Richard E. Weller, Selah, WA;
Michael A. Lind, Kent, WA;
Darrell R. Fisher, Richland, WA;
Anna Gutowska, Richland, WA;
Allison A. Campbell, Kennewick, WA;

Power of Attorney:

KENNETH S. KLARQUIST–16445
ARTHUR LEWIS WHINSTON–19155
JAMES S. LEIGH–20434
John Stuart–24540
David Petersen–28106
Richard Polley–28107
Ramon Klitzke III–30188
William D. Noonan–30878
John Vandenberg–31312
Garth Winn–33220

Domestic Priority data as claimed by applicant

This application is a CON of 09/058,712 04/10/1998 PAT 6,296,831

Foreign Applications

If Required, Foreign Filing License Granted: 05/23/2001

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US09/853,507

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

STIMULUS SENSITIVE GEL WITH RADIOISOTOPE AND METHODS OF MAKING

Preliminary Class

424

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).

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Weller et al. :
Application No. 09/853,507 : ON PETITION
Filed: May 9, 2001 :
Attorney Docket No. E-1507 CON :

This is a decision on the "Request for Correction of Filing Date" filed June 11, 2001, which is being treated as a petition under 37 CFR 1.10(c). The petition was supplemented on September 14, 2004. The Office apologizes for the delay in rendering a decision.

The petition is **granted**.

37 CFR 1.10(c) states,

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

All of the above requirements have been met. Therefore, the application will be accorded a filing date of May 9, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of May 9, 2001.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

DEAN P. ALDERUCCI
WALKER DIGITAL CORPORATION
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905-1326

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JAN 07 2002

OFFICE OF PETITIONS

In re Application of
Tedesco et al.
Application No. 09/853,541
Filed: May 11, 2001
Attorney Docket No. 98-030-C1

DECISION GRANTING PETITION

This is a decision on the petition filed August 10, 2001, which is being treated under 37 CFR 1.53(e), to accord the above-identified application a filing date of May 11, 2001.

The petition is **GRANTED.**

Petitioner filed, via Express Mail, nonprovisional application papers on May 11, 2001, under 1.53(b), including a transmittal form which indicated that 54 pages of specification, and 13 pages of formal drawings were submitted, along with an oath or declaration with power of attorney, an Information Disclosure Statement, a preliminary amendment, and an acknowledgment postcard.

On June 11, 2001, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that formal drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the formal drawings. The Notice also indicated that the basic filing fee was missing.

In response, the present petition was filed, alleging that the formal drawings were deposited on May 11, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of the formal drawings on May 11, 2001.[1] Petitioner has also submitted a copy of the missing formal drawings.

Upon review of the record, the formal drawings, deposited on May 11, 2001, have not been located. However, the evidence is convincing that the application papers deposited on May 11, 2001 included the formal drawings, and that formal drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of May 11, 2001.

In view of the above, the petition is **granted**. The copy of the formal drawings submitted with the petition will be used for examination purposes.

The petition fee will be refunded.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "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 items listed thereon by the PTO." M.P.E.P. § 503.

The Notice mailed June 11, 2001 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 11, 2001, using the application papers filed on May 11, 2001, and the copy of the formal drawings filed on August 10, 2001.

Telephone inquiries should be directed to Petitions Attorney Michael Sherry at (703) 306-0028.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 18 2006

JONES DAY
222 EASE 41ST STREET
NEW YORK, NY 10017

In re Application of	:
Miguel S. Barbosa et al et al	:
Serial No.: 09/853,544	: PETITION DECISION
Filed: May 10, 2001	:
Attorney Docket No.: 10624-051	:

This is in response to the petition under 37 CFR 1.181, filed January 30, 2006, requesting withdrawal of a improperly filed Notice of Appeal..

A review of the file history shows that applicants filed RCE papers on August 11, 2004. The examiner mailed a non-Final Office action to applicants on November 2, 2004, setting a three month shortened statutory period for reply. Applicants replied on February 2, 2005. The examiner then mailed a new non-Final Office action to applicants on August 31, 2005, setting a three month shortened statutory period for reply. Applicants replied on November 29, 2005, entitling the reply as a reply under 37 CFR 1.116 (reply to Final Office action). Accompanying the reply was a Notice of Appeal. The Notice of Appeal was not required, but was not improper as the application had been twice rejected. Upon realizing that the Notice of Appeal had been filed in error, applicants filed this petition seeking its withdrawal on January 30, 2006.

The petition is **GRANTED**. The Notice of Appeal fee paid will not be returned to applicants.

The petition fee of $130.00 will be will be charged to applicants' Deposit Account, 50-3013, as directed.

The application will be forwarded to the examiner for consideration of applicants' reply of November 29, 2005.

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

John L. LeGuyader.
Director, Technology Center 1600

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)
6409153	2002-06-25	09853549	2001-05-14	

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	/G. F. Gallinger/	Date (YYYY-MM-DD)	2007-05-15
Name	Glen F. Gallinger	Registration Number	34168

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
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In re Patent No. 6409153
Issue Date: June 25,2002
Application No. 09853549
Filed: May 14,2001
Attorney Docket No. BIKE.STD

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

This is a decision on the electronic petition, filed May 15,2007 ,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 15,2007 . 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
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Paper No.

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

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of :
Sami Nemi :
Application No. 09/853,602 : DECISION ON APPLICATION
Filed: May 14, 2001 : FOR
Atty Docket No. 08806.0010-00 : PATENT TERM ADJUSTMENT
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed August 4, 2005. Applicant requests that the patent term adjustment indicated in the Notice of Allowance be corrected from four hundred forty-seven (447) days to three hundred ninety-nine (399) days.

The request for reconsideration of the 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 **three hundred sixty-seven (367)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 6, 2005, the Office mailed the Notice of Allowance with a Patent Term Adjustment of 447 days. On August 4, 2005, applicant timely[1] filed the instant application for patent term adjustment. The applicant points out that the Office mailed a non-final rejection on December 19, 2003 (not April 1, 2004 as indicated on the PAIR screen) thereby reducing the adjustment stated with the Notice of Allowance. Additionally, applicant argues that the 32-day reduction be corrected to 0 days as applicant's amendment, filed on September 2, 2005, was filed in response to the Final Office Action and was filed within the three-month period set forth in § 1.704(b). Applicant states that the reduction of 32 days associated with the second response, a Notice of Appeal, is improper. Applicant maintains that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application, as set forth in 37 C.F.R. § 1.704(b).

Applicant discloses that this application is subject to a terminal disclaimer.

Applicant is correct that a period of adjustment of 80 days for Office delay should not have been entered. A review of the

[1] PALM records indicate that the Issue Fee payment was received on August 11, 2005.

record confirms that in response to, and within four months of filing of the response filed September 12, 2003, the Office mailed a non-final Office action on December 19, 2003 (not April 1, 2004). Thus, in association with responding to the response filed September 12, 2003, there was no Office delay within the meaning of 1.703(a)(2).(It is further noted that applicant filed a response to the non-final Office action on March 19, 2004, within three months of the mailing of the Office action).

However, applicant is incorrect with respect to the reduction of 32 days for applicant's filing of a Notice of Appeal on October 4, 2004. This reduction is proper pursuant to § 1.704(b). As the amendment filed September 2, 2004, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed June 2, 2004, continued to run. See Advisory Action mailed October 12, 2004. The proper reply, a Notice of Appeal, was not received in the Office until October 4, 2004. Accordingly, the reduction began September 3, 2004, the day after the date that is three months after the date of mailing of the final rejection, and ended October 4, 2004, the date the Notice of Appeal was filed. Thus, the period of reduction of 32 days is correct.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is THREE HUNDRED SIXTY-SEVEN (367) days (399 - 32)..

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, as well as, any additional patent term accrued for the Office taking in excess of three years to issue the patent[2].

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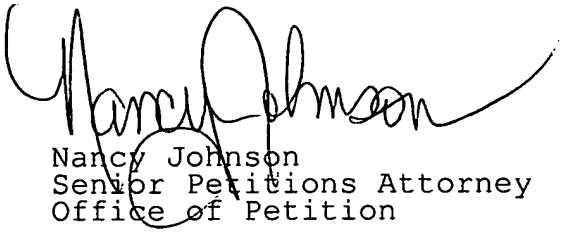
[2] Applicants are reminded that: If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual 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 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). As 522 days have already been entered for grounds specified in § 1.702(a)(1) and § 1.702(a)(2), no additional patent term will be entered for the Office taking in excess of three years to issue the patent unless the number of days of delay exceed 522 days.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of REVISED PAIR Screen

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WASHINGTON, DC 20037

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Nishino, Masaaki	:	
Application No. 09/853,634	:	ON PETITION
Filed: May 14, 2001	:	
Attorney Docket No. Q64483	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 12, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

The Notice of Appeal filed December 12, 2005, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2600 for further processing.

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

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090825

DATE : August 25, 2009

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 7435432

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:

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657

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Paper No. 21

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

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AUG 07 2003

OFFICE OF PETITIONS

In re Application of :
NICOLAIDES et al. : DECISION ON PETITION
Application No. 09/853,646 :
Filed: May 14, 2001 :
Attorney Docket No. :
001107.00138 :

This is a decision on the petition under 37 CFR 1.182, filed on May 27, 2003, to reinstated an original claim of priority. In the alternative, applicants submitted a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of prior filed provisional application No. 60/203,905.

The petition under 37 CFR 1.182 is dismissed as moot because the petition is properly treated as a 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 the expiration of the period specified in 37 CFR 1.78(a)(5), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed provisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title. *See* 35 USC 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present nonprovisional application was filed on Monday, May 14, 2001, within twelve months of the May 12, 2000 filing date of provisional application No. 60/203,905, for which priority is claimed.[1] The specification as filed claimed the benefit of provisional application No. 60/203,905; however, applicants indicated an incorrect filing of May 11, 2000.

Presently, applicants have filed an amendment to perfect the claim of priority to provisional application No. 60/203,905, with the correct filing date of May 12, 2000. The record indicates that the Office recognized the claim for benefit of prior filed provisional application No. 60/203,905, stating that the filing date that applicants provided was inconsistent with USPTO records. The priority information has been updated in the USPTO records to reflect applicants' perfection of the priority claim. A corrected filing receipt is enclosed. Further, Office Patent Application Location and Monitoring ("PALM") Intranet Pre-Grant Publication Information records indicate that the present application was published on May 9, 2002. In view thereof, a petition under 37 CFR 1.78(a)(6) is unnecessary.

This petition is hereby **dismissed as moot**. No petition fee has been charged.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being returned to Technology Center Art Unit 1632 for review of the amendment filed on May 27, 2003.

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[1] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day." 35 USC 21(b).

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
John Muraca
Application No. 09/853,703
Filed: May 14, 2001
Attorney Docket No.: 1503.**1002**

ON PETITION

This is a decision on the petition filed April 19, 2007 to withdraw the holding of abandonment for the above-identified application. The petition is treated , under 37 CFR 1.181.

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

The application was held abandoned on August 17, 2006, for failure to timely submit a timely response to the Final Office Action mailed May 16, 2006, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed April 12, 2007.

Petitioner asserts that a response was filed November 15, 2006 and in support, petitioner has submitted, *inter alia*, a copy of the response in the form of a Notice of Appeal and a post card receipt date stamped November 15, 2006 by the USPTO.

A search of the application file and the USPTO records don't reveal that the Notice of Appeal was filed but the evidence submitted corroborates a timely response to the Final Office Action.

Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

Petitioner is advised that the period for filing the Appeal Brief continues to run from the filing date of the Notice of Appeal.

This matter will be referred to Technology Center 3626 to await the filing of the Appeal Brief.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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SEP 11 2006
OFFICE OF PETITIONS

In re Application of :
Tsai : DECISION ON PETITION
Application No. 09/853,720 :
Filed: May 14, 2001 :
Docket No.: FP7635 :

The above-identified application has been directed to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181.

This application was held abandoned September 11, 2001 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice), mailed July 10, 2001, which set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed February 2, 2004.

Petitioner asserts non-receipt of the Notice mailed July 10, 2001.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner's arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Notice of July 10, 2001 was not received.

In view thereof he Notice of Abandonment mailed February 2, 2004 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of

Kim F. Storm

Application No. 09/853,743

Filed: May 10, 2001

Attorney Docket No.
08204/8201348.000

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 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 July 29, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on October 30, 2004. A Notice of Abandonment was mailed on March 14, 2005.

The amendment filed January 27, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2137 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

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No.

SEP 30 2003
PATENT & TRADEMARK OFFICE

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

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MAY 12 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shigeru Ueki et al :
Application No. 09/853,746 :
Filed: May 14, 2001 :
Attorney Docket No. 208449US0 :

This is a decision on the petition, filed by facsimile transmission on May 12, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 1615 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: 5/16/03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 05/16/03
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).

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NEW YORK NY 10017

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NOV 1 3 2009

OFFICE OF PETITIONS

In re Patent No. 6,998,135 :
Issue Date: February 14, 2006 :
Application No. 09/853,761 : NOTICE
Filed: May 14, 2001 :
Attorney Docket No. 11762-050-999 :

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

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

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

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

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AUG 18 2004

Youti Kuo
88 Foxbourne Road
Penfield, NY 14526

Paper No. //

In re Application of	:	DECISION ON PETITION
Youti Kuo	:	TO WITHDRAW
Serial No. : 09/853,803	:	THE HOLDING OF
Filed : May 14, 2001	:	ABANDONMENT
For : Handheld Diagnostic Device with Renewable Biosensor	:	

This is a decision on petitioner's request filed March 16, 2004, to review the holding of abandonment mailed March 8, 2004 for failure file a response to the Office action mailed July 17, 2003. The basis for petitioner's request is the assertion that a timely response was mailed July 21, 2003. There is no fee required for this petition.

The petition is dismissed.

An Office action was mailed to applicant on July 17, 2003. The Office action included only one rejection of some of the claims, the rejection being a nonstatutory double patenting rejection based on a number of claims appearing in applicant's copending application serial No. 09/802,988.

A petition to withdraw the holding of abandonment wherein it is alleged that a proper response was filed should be filed within two months of the mailing date of the Office action from which relief is requested (37 CFR 1.181(f)) and requires: (a) a copy of the previously mailed response and/or fee verified to be a true copy of that which was filed; and (b) evidence of the receipt of the response and/or fee by the Office or a showing of timely mailing or transmission of the response. Section 711.03(c) of the Manual of Patent Examining Procedure (MPEP) at subsection I-B, provides an explanation of what is needed to satisfy item (b) above. Evidence of receipt of the correspondence in question may include a copy of a Patent and Trademark Office (PTO) stamped returned postcard receipt that properly identifies the received correspondence (see also section 503 of the MPEP). If there is no evidence of receipt of the communication, applicant may rely on the certificate of mailing or transmission guidelines set forth in 37 CFR 1.8(b) to show that the correspondence was timely mailed or transmitted by providing a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (See also section 512 of the MPEP). If filed using the "Express Mail" procedures set forth in 37 CFR 1.10(e), the petition should include (a) a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing, (b) a true copy of the originally deposited correspondence showing the number of the "Express Mail" label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official

notification entered by the USPS, and (c) a statement, signed by the person who deposited the documents as "Express Mail" with the United States Postal Service (USPS), setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received (see also section 513 of the MPEP). In the instant situation, petitioner has failed to fulfill the requirements of item (b).

Petitioner's request does not include a copy of a PTO-stamped return receipt, nor does it include any evidence on the supplied copy of the documents that either the certificate of mailing/transmission or "Express Mail" procedures were used. Based on the information provided by applicant and a check of our records, only receipt of applicant's issue fee can be confirmed. However, the submission of the issue fee cannot in any way be considered a response to the outstanding Office action. The outstanding Office action did not indicate that the application was being allowed and that an issue fee was required.

Thus, in the absence of any direct evidence to show that a proper reply to the Office action of July 17, 2003 was received/mailed the petition requesting the withdrawal of the holding of abandonment must be dismissed.

Petitioner is advised that abandonment of this application may also be overcome by means of a Petition to Revive under 37 CFR 1.137. Such a petition may follow either of two different paths, depending upon whether the failure to properly respond to the Office letter within the time set was unavoidable, or whether it was unintentional. Each of these two different types of petition requires its own type of showing, and its own type of fee. They are discussed separately below.

1. Failure to make timely response was unavoidable.

   A petition to revive an abandoned application on the grounds that the failure to make a timely response was unavoidable (37 CFR 1.137(a)) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, by a complete proposed response to the Office action of July 17, 203, and by the petition fee. That fee is $55.00 (for a small entity) or $110.00 (for a large entity).

   No consideration will be given to the substance of a petition until the petition fee is received.

   The showing requirement can be met submissions of statements of fact establishing that the delay resulting in failure to respond in timely fashion to the Office action was unavoidable.

2. Failure to make timely response was unintentional.

A petition to revive an abandoned application on the grounds that the failure to make a timely response was unintentional (37 CFR 1.137(b)) must be accompanied by a statement that the entire delay was unintentional, by a complete proposed response to the Office action of July 17, 2003, and by a petition fee. That fee is $665.00 (for a small entity) or $1,330.00 (for a large entity).

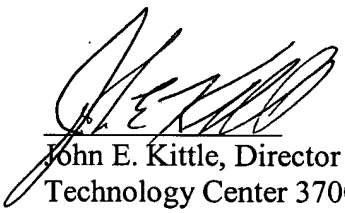
Please direct any correspondence relating to a Petition to Revive to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of Petitions. Any questions regarding the petition to revive should be directed to the staff in the Petitions Office at (703) 305-9285.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. The reconsideration should include a cover letter entitled "Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181."

Telephone inquiries relative to this petition should be directed to Special Programs Examiner Andres Kashnikow at (703) 308-1137.

Upon the mailing of this decision, the application will be forwarded to the appropriate official to have the request for the refund of the issue fee considered.

Summary: Petition to withdraw holding of abandonment DISMISSED.



John E. Kittle, Director
Technology Center 3700
Phone: (703) 308-0873

ak/7/27/04

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Paper No. 13

Youti Kuo
88 Foxbourne Road
Penfield NY 14526

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Kuo : DECISION ON PETITION
Application No. 09/853,803 :
Filed: May 14, 2001 :
For: HANDHELD DIAGNOSTIC DEVICE :
WITH RENEWABLE BIOSENSOR :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned October 18, 2003 for failure to timely submit a proper reply to the non-final Office action mailed July 17, 2003. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed March 8, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. Petitioner has included with the instant petition "Comments on Statement of Reasons for Allowance." As the instant application has not been allowed, the response is considered improper.

Any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment or a continuation application (and appropriate fee).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

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NOV 10 2004

OFFICE OF PETITIONS

Youti Kuo
88 Foxbourne Road
Penfield, NY 14526

In re Application of :
Kuo : DECISION ON PETITION
Application No. 09/853,803 :
Filed: May 14, 2001 :
For: HANDHELD DIAGNOSTIC DEVICE :
WITH RENEWABLE BIOSENSOR :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 18, 2003 for failure to timely reply to the non-final Office action mailed July 17, 2003. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed March 8, 2004. A petition under 37 C.F.R. § 1.137(b) was filed September 10, 2004 and was dismissed October 14, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3700 for further processing.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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

WITHROW & TERRANOVA PLLC
PO BOX 1287
CARY NC 27512

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APR 17 2002

OFFICE OF PETITIONS

In re Application of
Lang, et al.
Application No. 09/853,827
Filed: May 11, 2001
Attorney Docket No. 4989-009
Title: AUTOMATIC CONFIGURATION FOR PORTABLE DEVICES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 29, 2002.

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

Rule 47 petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 11, 2001. On July 11, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, petitioner filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated November 13, 2001 (November 11 was a Sunday, November 12 was a federal holiday). Accompanying the petition was a declaration by Jennifer Rush, detailing the facts concerning co-inventors Lang's, Sharp's, and Adkins' refusal to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) 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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to item (1), the petition and accompanying evidence have been carefully considered. However, the declaration by Rush does not establish that the three non-signing inventors were presented with a copy of the application papers. Requiring that an inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted "ensures that the inventor is apprised of the application to which the oath or declaration is directed."[1]

The declaration by Rush and the accompanying cover letter do set forth that non-signing inventor Sharp was presented with "paperwork". However, it is not clear whether he was presented with the application papers (specification, claims, and drawings) or merely the declaration.

Moreover, with regard to non-signing inventors Lang and Adkins, Rush's declaration fails to establish that they were presented with any papers, much less the application papers. In the case of Lang, Rush's declaration only sets forth that he made an oral refusal to sign, without any averments that he was presented with the application papers.

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 may 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

[1] MPEP 409.03(d).

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

WITHROW & TERRANOVA PLLC
PO BOX 1287
CARY NC 27512

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JUL 0 1 2002

OFFICE OF PETITIONS

In re Application of :
Lang, et al. :
Application No. 09/853,827 :
Filed: May 11, 2001 :
Attorney Docket No. 4989-009 :
Title: AUTOMATIC CONFIGURATION FOR PORTABLE DEVICES : DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 10, 2002.

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

The above-identified application was filed on May 11, 2001. On July 11, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, petitioner filed a petition under 37 CFR 1.47(a) (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated November 13, 2001 (November 11 was a Sunday, November 12 was a federal holiday). Accompanying the petition was a declaration by Jennifer Rush, detailing the facts concerning co-inventors Lang's, Sharp's, and Adkins' refusal to sign the declaration. However, the petition was dismissed in a decision mailed on April 17, 2002. Petitioner was not succesful in showing that a copy of the application papers (specification, claims, and drawings) were presented to the non-signing inventors.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) 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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition, petitioner has supplied copies of cover letters addressed to non-signing inventors Lang, Sharp, and Adkins, dated April 25, 2002, which transmitted the application

papers. Petitioner has also included a declaration from paralegal Jennifer Rush, the person responsible for forwarding the application papers. According to Rush, as of June 10, 2002, no response from the non-signing inventors has been received.

The declaration filed January 29, 2002 and the petitions filed January 29, 2002 and June 10, 2002 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 (OIPE) for continuation of pre-examination processing.

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

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
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF KAREN DANA OSTER
PMB 1020
15450 SW BOONES FERRY ROAD #9
LAKE OSWEGO, OR 97035

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Vilcauskas Jr. et al	:	DECISION ON PETITION
Application No. 09/853,850	:	TO WITHDRAW
Filed: May 10, 2001	:	FROM RECORD
Attorney Docket No. KDO:195860-3	:	

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 13, 2005 and January 18, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reasons Ms. Oster provides for withdrawal (attorney time constraints) do not fall into the mandatory or permissive categories enumerated in 37 CFR 10.40.

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

This matter is being referred to Technology Center AU 3629 to await applicants' reply to the non-final Office action mailed september 9, 2005.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Irell & Manella, LLP
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067

APR - 4 2003

In re Application of)
Everett R. Geis et al.)
Application No. 09/853,852)
Filed: May 11, 2001)
Attorney Docket: V153501-0357)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorneys of record under 37 C.F.R. § 1.36, filed June 5, 2002.

The request was signed by Norman Brunell on behalf of all attorneys of record. Currently, there is no outstanding Office action that requires a response from applicant.

The request is APPROVED.

Applicant is reminded that there is no attorney of record at this time. The correspondence address of record has been changed to the address indicated below. All future communications from the Office will be directed to this address until otherwise notified by applicant.

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

cc: Brobeck, Phleger & Harrison LLP
12390 El Camino Real
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

PEACOCK MYERS AND ADAMS PC
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of :
Brian D. Butler et al :
Application No. 09/853,856 : DECISION GRANTING PETITION
Filed: May 10, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 30913-1001 :

This is a decision on the petition, filed January 22, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Although not stated by petitioner, it appears from Office computer database records that a PCT application based on the instant application was filed on May 11, 2001, which date is one day subsequent to the filing of the instant application. If this statement is incorrect, petitioner must immediately notify the Office. Petitioner is advised that any petition to revive under 37 CFR 1.137(f) should include the application number of the foreign filing and the filing date.

The petition further indicates that "Applicant unintentionally and without deceptive intent failed to notify the Patent Office of a foreign filing and to file a Request to Rescind Previous Nonpublication Request," 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.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of June 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2829 for appropriate action on the reply received November 18, 2002.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

R. J. Lasker
Larson & Taylor
Transpotomac Plaza, Bldg. 5, Ste. 900
1199 North Fairfax Street
Alexandria, VA 22314

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DEC 1 0 2001

OFFICE OF PETITIONS

In re Application of :
Frank W. Kotzur et al. :
Application No. 09/853,862 : DECISION REFUSING STATUS
Filed: May 14, 2001 : UNDER 37 CFR 1.47(a)
For: Machine for Boxing Wound Coils of :
Filamentary Material

This is in response to the petition under 37 CFR 1.47(a), filed November 5, 2001 and supplemented on November 29, 2001..

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 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). The reply to this decision may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63.

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) and (2) set forth above.

As to item (1), Rule 47 applicant failed to show or provide proof that the nonsigning inventor has 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, drawings, and oath or declaration) must have been presented. While the evidence submitted shows that only the declaration and power of attorney, and assignment were forwarded to the nonsigning inventor, no evidence has been submitted to show that a complete copy of the application papers was in fact mailed and/or received by the nonsigning inventor. Did the inventor receive a complete copy of the application?

Unless a nonsigning inventor(s) was presented with a copy of the application papers, the nonsigning inventor(s) could not attest that he has "reviewed and understands the application papers" and therefore could not comply with the request to sign the declaration. Accordingly, Rule 47 applicant failed to show or provide proof that inventor David B. Franklin has refused to sign the declaration after having been presented with the application papers. Petitioner should show that a complete copy of the application papers was presented to the nonsigning inventor, but that no response was received to the request to sign the oath/declaration or that a refusal was made and delivery of the application papers was not accepted in order to show that the inventor has refused to join in the application. 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 (MPEP), Section 409.03(d).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made is not acceptable. Additionally, when there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. On the other hand, if the refusal is in writing, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. See MPEP Section 409.03(d).

As to item (2), the declaration filed with the instant petition is not acceptable in that it does not identify the application number for the above-identified application. In addition, the modified copy filed by facsimile transmission on November 29, 2001 listing the correct application number, also cannot be accepted, but will be placed in the PTO file record. Accordingly, a new declaration pursuant to 37 CFR 1.63 listing the correct application number and signed by all of the available joint inventors on behalf of the nonsigning inventor is required.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R. J. Lasker
Larson & Taylor
Transpotomac Plaza, Bldg. 5, Suite 900
1199 North Fairfax Street
Alexandria, VA 22314

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FEB 19 2002

OFFICE OF PETITIONS

In re Application of
Frank W. Kotzur et al.
Application No. 09/853,862
Filed: May 14, 2001
For: Machine for Boxing Wound Coils of Filamentary Material

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the request for reconsideration filed February 4, 2001, pursuant to 37 CFR 1.47(a). The request for reconsideration included a Declaration in compliance with 37 CFR 1.63.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David B. Franklin
88 Ninham Drive
Carmel, NY 10512

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FEB 19 2002

OFFICE OF PETITIONS

In re Application of
Frank W. Kotzur, David B. Franklin, Brian P. Moore and Gregory A. Kotzur
Application No. 09/853,862
Filed: May 14, 2001
For: Machine for Boxing Wound Coils of Filamentary Material

Dear Mr. Franklin:

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

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

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

cc: R. J. Lasker
Larson & Taylor
Transpotomac Plaza, Bldg. 5, Suite 900
1199 North Fairfax Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 01-02

Paper No. 5

BANNER & WITCOFF
1001 G STREET, N.W.
SUITE 1100
WASHINGTON, DC 20001

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FEB 27 2002

OFFICE OF PETITIONS

In re Application of :
Greggory Riggins :
Application No. 09/853,880 : DECISION GRANTING PETITION
Filed: 14 May, 2001 :
Attorney's Docket No. 00250.00003 :

This is a decision on the petition filed on 19 December, 2001, to withdraw the "Notice of Incomplete Nonprovisional Application" mailed on 30 October, 2001, and to accord the above-identified application a filing date of 14 May, 2001.

On 14 May, 2001, the application was filed. On 30 October, 2001, however, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on 19 December, 2001, the present petition was filed, accompanied by four (4) sheets of drawings. Petitioners argue that the application should be accorded a filing date of 14 May, 2001, because (a) the application was deposited with drawings which were subsequently lost in the USPTO and (b) drawings are not necessary under 35 U.S.C. § 113 (first sentence). In support of petitioner's contention that four (4) sheets of drawings were filed with the other application papers deposited on 14 May, 2001, petitioner has provided, *inter alia*, a copy of a mail log purporting to show that four (4) sheets of

drawings were filed with the other application papers deposited on 14 May, 2001.
A review of the record reveals that no drawings are located among the application papers deposited on 14 May, 2001. Furthermore, petitioner has not provided sufficient proof that the drawings were deposited in the USPTO with the other application papers on 14 May, 2001.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[2]

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[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[2] MPEP 503.

The return postcard procedure described at MPEP 503 provides a basis by which petitioner may show that an application or parts thereof were received in the USPTO on a given date, and that the application is therefore entitled to a filing date of the date that the application, or parts thereof, were deposited in the USPTO. Petitioner, however, has not provided an itemized postcard showing that the drawings in question were deposited in the USPTO on 14 May, 2001. Although petitioner's mail log is shows that petitioner intended to file four (4) sheets of drawings with the other application papers deposited on 14 May, 2001, it is not persuasive evidence that the four (4) sheets of drawings petitioner intended to file were actually received in the USPTO on that date. In summary, petitioner simply has no proof that the drawings were among the papers deposited in the USPTO on the requested filing date.

Petitioner alternatively contends that drawings are not necessary for the understanding of the subject matter sought to be patented. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[3] A review of the record reveals that Claims 1-47 are method claims. 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 filed, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 19-0733.

The "Notice of Incomplete Nonprovisional Application" mailed on 30 October, 2001, was sent in error and is hereby vacated.

The four (4) sheets of drawings filed with the present petition will not be entered and will not be used during examination.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 14 May, 2001, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

---

[3]MPEP 601.01(f).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No.6

Danielle L. Herritt, Esq.
Testa, Hurwitz & Thibeault, LLP
125 High Street
Boston, Massachusetts 02110

MAY 0 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Shai Herzog, et al.
Application No. 09/853,894
Filed: May 11, 2001
For: APPLYING RECURSIVE POLICY FOR SCOPING OF ADMINISTRATION OF POLICY BASED NETWORKING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed April 3, 2002.

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

The request is signed by Danielle L. Herritt alone and does not contain a clear indication that Ms. Herritt is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

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: Scott Harvey, Esq.
Deputy General Counsel
Comdisco, Inc.
6111 North River Road
Rosemont, IL 60018

UNITED STATES 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

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FEB 14 2005

OFFICE OF PETITIONS

In re	:	
David G. Quinn	:	DECISION REGARDING
Application No. 09/853,916	:	PATENT TERM ADJUSTMENT
Filed: May 11, 2001	:	
Attorney Docket No. 5935/57	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)," filed January 10, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On December 9, 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 twenty-seven (27) days. On January 10, 2005, Applicant submitted the instant "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)". Applicant states that he believes there was an error in the patent term adjustment calculation, in particular because the instant application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of twenty-seven (27) days based on an adjustment for PTO delay of thirty-four (34) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and sixty-six (66) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by thirty-nine (39) and thirty-four (34) days of applicant delay, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

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.

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

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

Kery A Fries
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC73
FEB 12 2003
PATENT & TRADEMARK OFFICE

Paper No. 4

2000 AUG 11 AM 10:35

OFFICE OF COUNSEL, CODE OC4
NAVAL SURFACE WARFARE CENTER
INDIAN HEAD DIVISION
101 STRAUSS AVENUE, BLDG. D-326
INDIAN HEAD, MD 20640-5035

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AUG 7 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Adolph, et al.
Application No. 09/497,873
Filed: February 4, 2000
Attorney Docket No. NC 82,141

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 23, 2000, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. **HORST G. ADOLPH**
2. **MICHAEL E. SITZMANN**

The Office records have been corrected to reflect the change of the order of the names of the inventors as noted above.

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

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

Christina T. Tartera

Christina T. Tartera
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GROUP 3600

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Patent Department
Mitsubishi Electric Research
Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Anthony Vetro, et al. :
Application No. 09/854,020 : **ON PETITION**
Filed: May 11, 2001 :
Attorney Docket No. MH-5073 :

This is a decision on the petition, filed October 27, 2003, requesting withdrawal of the above-identified application from issue to permit consideration of an amendment after allowance. The petition was recently referred to the Office of Petitions for a decision thereon.

A Notice of Allowance and Issue Fee Due was mailed on September 29, 2003. On October 27, 2003, the present petition to withdraw from issue was filed. The mere filing of a petition does not stay the period for paying the issue fee. The statute is clear that failure to timely pay the issue fee within three months of the mailing date of the Notice of Allowance and Issue Fee Due will result in abandonment of the application. In fact, MPEP Section 1308 warns that "[u]nless applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment." The due date for paying the issue fee was December 29, 2003. Therefore, this application became abandoned by operation of law for failure to timely pay the issue fee on or before December 29, 2003.

The petition is dismissed.

Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unintentional." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the $1,330 petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing

of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement 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).

Additionally, the petition to revive must be accompanied by the fees required in the Notice of Allowance and Issue Fee Due. However, applicant is reminded that since the issue fee was increased to $1330 effective October 1, 2003, the issue fee must be paid in the revised amount.

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

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

By hand:
Customer Window
2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
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
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PATENT DEPARTMENT
MITSUBISHI ELECTRIC RESEARCH
LABORATORIES, INC.
201 BROADWAY
CAMBRIDGE, MA 02139

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DEC 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Anthony Vetro, et al. :
Application No. 09/854,020 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. MH-5073 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 27, 2005. The petition is filed in response to a decision dismissing petition mailed May 27, 2004.

The petition is GRANTED.

Petitioners request that "(i) the payment of the Issue Fee submitted herewith, be entered, (ii) the active status of the above-reference application be acknowledged, and (iii)) the amendment after allowance be considered."

The application became abandoned for failure to pay the issue fee on or before December 29, 2003. A grantable petition under 37 CFR 1.137(b)[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(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

[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.

The petition is found to comply with the requirements of 37 CFR 1.137(b). However, applicant is reminded that no amendment may be made as a matter of right in an application after the mailing of the Notice of Allowance.

The application is being referred to the Technology Center for appropriate action as may be deemed necessary on the amendment filed October 22, 2003.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOULDER PATENT SERVICE INC
1021 GAPTER ROAD
BOULDER, CO 80303-2924

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NOV 2 8 2001

OFFICE OF PETITIONS

In re Application of :
Brune et al. :
Application No. 09/854,036 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. DCI-P017C :

This is a decision on the petition filed September 24, 2001, to accord the above-identified application a filing date of May 10, 2001, instead of May 14, 2001.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Since an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Accordingly, the petition is **dismissed**.

The Office, on its own initiative and at its own discretion, has made a search of an USPS database. The search states the package was accepted by the USPS on May 11, 2001.

Petitioner has two choices. Petitioner may provide a showing in compliance with 37 CFR 1.10(c) or 37 CFR 1.10(d) establishing a filing date of May 10, 2001, or petitioner may request the date of May 11, 2001, based on the results of the Office's search of the USPS database.

Any request for reconsideration, or request for a filing date of May 11, 2001, 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 1.10." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

If a request for reconsideration is not filed within two months, the file will be forwarded to Technology Center 2800 for examination in due course with a filing date of May 14, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

LAW OFFICES OF JAMES D. MCFARLAND
12555 HIGH BLUFF DRIVE
SUITE 280 A
SAN DIEGO, CA 92130

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JAN 28 2002

OFFICE OF PETITIONS

In re Application of :
Blasingame et al. : DECISION DISMISSING
Application No. 09/854,039 : PETITION AS MOOT
Filed: May 11, 2001 :
Attorney Docket No. 0720.P001A :

This is a decision on the petition filed July 30, 2001, requesting that the above-identified application be accorded a filing date of May 11, 2001.

The petition is **dismissed as moot.**

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is May 11, 2001. Therefore, the petition is moot.

The application file is being forwarded to Technology Center 2100 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JASPAN SCHLESINGER HOFFMAN LLP
300 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
James Larson :
Application No. 09/854,082 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. 36760 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 12, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 8, 2009

TO SPE OF : ART UNIT 2192
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/854084/7096209

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: Ok to Enter

SPE Art Unit 2171

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

In column 5, line 16, delete "60" and insert - - 50 - -, therefor.
(Specification filed on May 10, 2001, page 10, line 5)

In column 6, line 5, delete "sever" and insert - - server - -, therefor.
(Specification filed on May 10, 2001, page 11, line 26)

Ok to Enter
AD
3/19/10

In column 7, lines 51-59, delete "As described above, computer system 100 also contains a display device 141 coupled to the bus 130 for displaying information to the computer user. Display device 141 is suitable for generating graphic images and alphanumeric characters recognizable to the user. Any of a number of display technologies can be used, e.g., cathode ray tube (CRT), liquid crystal display (LCD), field emission display (FED), thin film transistor (TFT), electronic paper display, plasma, etc., on screen cursor device 143." and insert - - Also included in computer system 100 of Figure 3 is an optional alphanumeric input device 142. In one implementation, e.g., when utilized in handheld computer system 80, device 142 is a handwriting recognition pad ("digitizer"). In another implementation, e.g., when utilized in either laptop computer system 81 and/or desktop computer system 82, device 142 is a keyboard. Alphanumeric input device 142 can communicate information and command selections to processor 131. - -, therefor.
(Amendment to specification filed on Mar. 12, 2004, page 3, lines 10-16)

In column 18, line 2, in Claim 9, delete "existing" and insert - - existent - -, therefor.
(Amendment to claims filed on May 26, 2006, page 5, in Claim 17, line 5)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

3/27/2009
DATE

/Lloyd E. Dakin, Jr., Reg. # 38,423/
Name: Lloyd E Dakin
Registration No.: 38423

Attorney/Agent of Record

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

PAGE 2/4 * RCVD AT 3/19/2010 10:08:04 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/36 * DNIS:2709942 * CSID:7033050040 * DURATION (mm-ss):01-56

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United States Patent and Trademark Office
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Tony P. Chiang, et al.
Application No. 09/854,092
Filed: May 10, 2001
Attorney Docket No. PA1663US

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 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35

U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for Application No. 09/812,285 along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

[1] *Note* 37 CFR 1.121

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 6

Daniel Robbins
3364A Industrial Court
San Diego, CA 92121

MAILED

JUN 0 4 2003

Technology Center 2100

In re Application of:)
Lin)
Application No. 09/854,101) **DECISION ON REQUEST FOR**
Filed: May 11, 2001) **WITHDRAWAL AS ATTORNEY**
For: CONTROLLED PROXY SECURE)
END TO END COMMUNICATION

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

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

The request filed May 28, 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: Mrs. Hung-Yu Lin
17983 Pueblo Vista Lane
San Diego, CA 92127

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BAKER & MCKENZIE LLP
805 THIRD AVENUE – 29TH FLOOR
NEW YORK, NY 10022

In re Application of :
Henry Ewen :
Application No. 09/854,109 : DECISION ON REQUEST TO
Filed: May 11, 2001 : WITHDRAW AS ATTORNEY
For: **DATA TRANSMISSION SYSTEM AND METHOD** :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on February 28, 2005.

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

Attorneys/Agents requesting the withdraw are withdrawn.

Accordingly, the request is **GRANTED**.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Hector Rosa
Synergistic
201 Park Place, Suite 106
Altamonte Springs, FL 32701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 04-02

Paper No. 7

SYMYX TECHNOLOGIES INC
LEGAL DEPARTMENT
3100 CENTRAL EXPRESS
SANTA CLARA CA 95051

COPY MAILED

APR 17 2002

OFFICE OF PETITIONS

In re Application of	:	
Boussie et al.	:	
Application No. 09/854,128	:	DECISION DISMISSING
Filed: 10 May, 2001	:	PETITION
Attorney Docket No. 99-111CIP1	:	

This is a decision in reference to the petition filed on 28 February, 2002 (certificate of mailing date 13 February, 2002), under 37 CFR 1.53(b), requesting that the above identified application be accorded a filing date of 10 May, 2001, with two (2) sheets of drawings as a part of the original disclosure.

The petition is **dismissed**.

The application was deposited on 10 May, 2001, without drawings. On 1 February, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date the drawings were received. A two (2)-month period for reply was set.

In response, on 28 February, 2002 (certificate of mailing date 13 February, 2002), petitioner filed the present petition accompanied by two (2) sheets of drawings. Petitioners assert that the application, including two (2) sheets of drawings, is entitled to a filing date of 10 May, 2001, because the application claims the benefit of prior Application No. 09/567,598, filed on 10 May, 2000, which contains the two (2) drawing figures contained in the two (2) sheets of drawings filed with the present petition.

Petitioners' argument has been considered, but is not persuasive. Whether the drawings were a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[1] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[2] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. The two (2) sheets of drawings were simply not filed in the present application in the USPTO on 10 May, 2001.

A review of the record reveals that Claims 1-24, however, are method claims. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[3] 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 filed, is entitled to a filing date without the drawings.

The application will be processed and examined using only the application papers filed on 10 May, 2001. The two (2) sheets of drawings supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The Notice mailed on 1 February, 2002, is hereby vacated. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 50-0496.

Receipt of the preliminary amendment filed on 28 February, 2002, is acknowledged.

---

[1] See MPEP 608.01(p).

[2] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

[3] MPEP 601.01(f).

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 10 May, 2001, using the application papers filed on that date, and for an indication on the bib-data sheet that zero (0) sheets of drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 09-02

Paper No. 11

SYMYX TECHNOLOGIES INC
LEGAL DEPARTMENT
3100 CENTRAL EXPRESS
SANTA CLARA CA 95051

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SEP 13 2002

OFFICE OF PETITIONS

In re Application of	:
Boussie et al.	:
Application No. 09/854,128	: DECISION DISMISSING
Filed: 10 May, 2001	: PETITION
Attorney Docket No. 99-111CIP1	:

This is a decision in reference to the renewed petition filed on 13 June, 2002, requesting that the above identified application be accorded a filing date of 10 May, 2001, with two (2) sheets of drawings as a part of the original disclosure.

The petition is again **dismissed**.

The application was deposited on 10 May, 2001, without drawings. On 1 February, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date the drawings were received. A two (2)-month period for reply was set.

In response, on 28 February, 2002 (certificate of mailing date 13 February, 2002), petitioner filed a petition accompanied by two (2) sheets of drawings. Petitioners assert that the application, including two (2) sheets of drawings, is entitled to a filing date of 10 May, 2001, because the application claims the benefit of prior Application No. 09/567,598, filed on 10 May, 2000, which contains the two (2) drawing figures contained in the two (2) sheets of drawings filed with the present petition.

The petition was dismissed on 17 April, 2002. However, it was noted that the application as filed was entitled to a filing date of 10 May, 2001, because Claims 1-24 are method claims. As

stated in the decision mailed on 17 April, 2002, it has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] 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 filed, is entitled to a filing date without the drawings.

On reconsideration, petitioners assert that the present application is a continuation-in-part of prior copending Application No. 09/567,598 filed on 10 May, 2000, which claims the benefit of Application No. 09/156,827, filed on 18 September, 1998, both of which are incorporated herein by reference. Based on the incorporation by reference, petitioners again request that the application be accorded a filing date of 10 May, 2001, with Figures 1 and 2 of the drawings as a part of the original disclosure.

The Office notes, upon further review, that Page 1 of the specification of the present application states:

> This application claims the benefit under 35 USC 120 and is a continuation-in-part of co-pending U.S. Patent Application No. 09/567,590 filed May 10, 2000, which claims the benefit of U.S. Patent Application No. 09/156,827 filed September 18, 1998, both of which are incorporated herein by reference.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

---

[1] MPEP 601.01(f).

Obviously, in view of the incorporation by reference of the prior application, the drawings of Figures 1 and 2 are not new matter if they was a part of the disclosure of the prior application.

Petitioners should file Figures 1 and 2 as a preliminary amendment. If Figures 1 and 2 are filed as an amendment, they will be reviewed by the Examiner for new matter.

The application will be processed and examined using only the application papers present on 10 May, 2001. The copies of Figures 1 and 2 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries specific to this matter 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

OIPE JC98
OCT 0 1 2001
PATENT & TRADEMARK OFFICE

Sector 4

Atty. Dkt. No. SALK2940
(088802-8051)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schiffer, et al.

Title: KAINATE RECEPTOR SUBUNIT GLUR7 POLYMORPHISMS FOR DIAGNOSING PREDISPOSITION AND FOR THERAPY OF MOOD DISORDERS

Appl. No.: 09/854,140

Filing Date: 05/11/2001

Examiner: Unassigned

Art Unit: 1632

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: **Commissioner for Patents, Washington, D.C. 20231**, on the date below.

Pridge McDougall
(Printed Name)

(Signature)

September 19, 2001
(Date of Deposit)

TRANSMITTAL/RESPONSE OF MISSING PARTS OF PATENT APPLICATION

Commissioner for Patents
Washington, D.C. 20231

Attn: BOX MISSING PARTS

Sir:

In response to the Notice to File Missing Parts of Application mailed on July 19, 2001, in the above-identified application, transmitted herewith are the missing parts needed to complete the filing of the subject patent application.

Enclosed are:

1. Copy of Notice to File Missing Parts (Part 2 of Form PTO-1533);
2. Declaration and Power of Attorney;
3. Copy of Transmittal/Response to Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures;
4. Assertion of Small Entity Status; and
5. Check for $664.00.

The filing fee has been calculated as shown below

	Claims as Filed		Included in Basic Fee		Extra Claims		Rate		Fee Totals
Basic Fee							$710.00		$710.00
Total Claims:	36	-	20	=	16	x	$18.00	=	$288.00
Independents:	5	-	3	=	2	x	$80.00	=	$160.00
If any Multiple Dependent Claim(s) present:						+	$270.00	=	$0.00
Surcharge under 37 CFR 1.16(e) for late filing of Executed Declaration						+	$130.00	=	$130.00
							SUBTOTAL:	=	$1288.00
[X]	Small Entity Fees Apply (subtract ½ of above):							=	$644.00
	TOTAL FILING FEE:							=	$644.00

[ ] Please charge Deposit Account No. 50-0872 in the amount of ____ in payment of surcharge fee (37 C.F.R. § 1.16(e))

[X] Enclosed is a check in the total amount of $644.00.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date September 19, 2001

By Barry Wilson

FOLEY & LARDNER
P.O. Box 80278
San Diego, California 92138-0278
Telephone: (858) 847-6722
Facsimile: (858) 792-6773

Barry S. Wilson
Attorney for Applicant
Registration No. 39,431

50078

FOLEY & LARDNER
PETTY CASH ACCOUNT DEL MAR
P.O. BOX 80278 858-847-6700
SAN DIEGO, CA 92138

90-7172/395
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Barbara M. Jones

FOR (088802/8051)

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OIPE JC180 OCT 0 1 2001 PATENT & TRADEMARK OFFICE

10/23

Sector

Atty. Dkt. No. SALK2940
(088802-8051) Seq

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schiffer, et al.

Title: KAINATE RECEPTOR SUBUNIT GLUR7 POLYMORPHISMS FOR DIAGNOSING PREDISPOSITION AND FOR THERAPY OF MOOD DISORDERS

Appl. No.: 09/854,140

Filing Date: 05/11/2001

Examiner: Unassigned

Art Unit: 1632

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: **Commissioner for Patents, Washington, D.C. 20231**, on the date below.

Pridge McDougall
(Printed Name)

(Signature)

September 19, 2001
(Date of Deposit)

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

Commissioner for Patents
Washington, D.C. 20231

BOX SEQUENCE

Sir:

Enclosed please find the following:

[1] Copy of Notice to File Missing Parts of Nonprovisional Application (requesting compliance with the requirements for applications containing sequence disclosures);

[2] Copy of Transmittal of Missing Parts of Application and check, as filed under separate cover with Box Missing Parts;

[3] Computer Disk Containing Sequence Listing; and

[4] Sequence Listing Paper Copy.

[5] Statement in Accordance with 37 CFR §1.821 – 1.825

A check for payment of the filing fees was submitted under separate cover with the other missing parts to Box Missing Parts (copies enclosed). The Commissioner is

hereby authorized to charge any deficiency in fees under 37 C.F.R. §§ 1.16, 1.17, and 1.21 that may be required by this transmittal, or to credit any overpayment, to **Deposit Account No. 50-0872**.

Respectfully submitted,

Date September 19, 2001

By Barry Wilson

FOLEY & LARDNER
P.O. Box 80278
San Diego, California 92138-0278
Telephone: (858) 847-6722
Facsimile: (858) 792-6773

Barry S. Wilson
Attorney for Applicant
Registration No. 39,431

OIPE JC98
OCT 0 1 2001
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PEFR

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/854,140	05/11/2001	Hans H. Schiffer	088802-2940

CONFIRMATION NO. 6799

FORMALITIES LETTER

OC000000006318263

Barry S. Wilson
Foley & Lardner
23rd Floor
402 West Broadway
San Diego, CA 92101-3542

Date Mailed: 07/19/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/02/2001 RHARIS1 00000064 500872 09854140

01 FC:201		370.00 OP
02 FC:202		84.00 OP
03 FC:203		144.00 OP
04 FC:205	19.00 CH	46.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $224.
  - $**144** for **16** total claims over 20.
  - $**80** for **2** independent claims over 3 .
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 644.**

- 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Tom Hunter
Quine Intellectual Property Law Group
PO Box 458
Alameda, CA 94501-9558

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MAY 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Ilse Bartke :
Application No. 09/854,142 : ON PETITION
Filed: May 10, 2001 :
Attorney Docket No. 305T-900320US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 Missing Parts of Application (Notice) mailed August 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W. RIVERSIDE AVENUE, SUITE 500
SPOKANE, WA 99201

In re Application of :
Steven Weil et al :
Application No. 09/854,149 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. MS1-747US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 24, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2176 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Paul R. Goldberg et al. :
Application No. 09/854,166 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. QUSA.021US0 :

This is a decision on the petition filed November 8, 2005, under 37 CFR 1.137(a)[1] and alternatively under 37 CFR 1.137(b)[2], to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned January 14, 2005 for failure to file a proper and

---

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

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

timely response to the Restriction Requirement mailed December 13, 2004. Accordingly, a Notice of Abandonment was mailed June 30, 2005.

Petitioner argues that a change of address by way of a customer number change was filed for a number of patent applications, including the instant application, through the Electronic Business Center, but that the USPTO inadvertently re-entered the Power of Attorney filed September 7, 2001. Petitioner further argues therefore that the Restriction Requirement mailed December 13, 2004 was mailed to the old address and thus was not received. As proof that a request for an address change was submitted, petitioner submits a copy of the USPTO date-stamped post card receipt and correspondence mailed October 2, 2003 to the correct address to show that the address was in fact changed and then inadvertently changed back to the old address, all prior to the mailing of the Restriction Requirement mailed December 13, 2004.

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

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

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.[4]

---

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

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

A review of the file reveals that the petitioner is correct, that a change of address was in fact filed prior to the mailing of the Restriction Requirement and then inadvertently, by the USPTO, changed back to the old address. Further, the Restriction Requirement and the Notice of Abandonment were both returned to the USPTO by the United States Postal Service as undeliverable. It is noted therefore that an error on the part of the USPTO caused the office action mailed to not be received by the petitioner. Thus, petitioner's delay in responding to the Restriction Requirement was unavoidable under the standard set out at 37 CFR 1.137(a).

In view thereof, it will not be necessary to treat this petition alternatively under 37 CFR 1.137(b), the unintentional standard.

The address has been corrected and this matter is being referred to Technology Center 2654 for review of the response to the Restriction Requirement and for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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345 ENCINAL STREET
P.O. BOX 635
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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of
Robert J. Bernardi et al.
Application No. 09/854,172
Filed: May 11, 2001
Attorney Docket No. 18864-06052US
Title: AUTO-ADJUST NOISE CANCELING MICROPHONE WITH POSITION SENSOR

DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

BACKGROUND

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed August 28, 2007, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007.

RELEVANT PORTION OF THE MPEP

MPEP §711.03(c)(I)(A) sets forth, *in toto*:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation

1 See MPEP § 710.02(e).

that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment because it is incomplete.

Petitioner has included a statement that a thorough search of the file jacket and docket records were conducted. Petitioner has further included a copy of the docket record, however **the copy of the docket record that was provided is not legible.** As such, it does not appear that the copy that Petitioner has submitted is electronically reproducible.

It follows that the present petition must be **DISMISSED**.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled

"Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

On renewed petition, Petitioner may wish to consider either submitting a higher quality copy of this docket record, or refrain from submitting the copy via facsimile transmission.

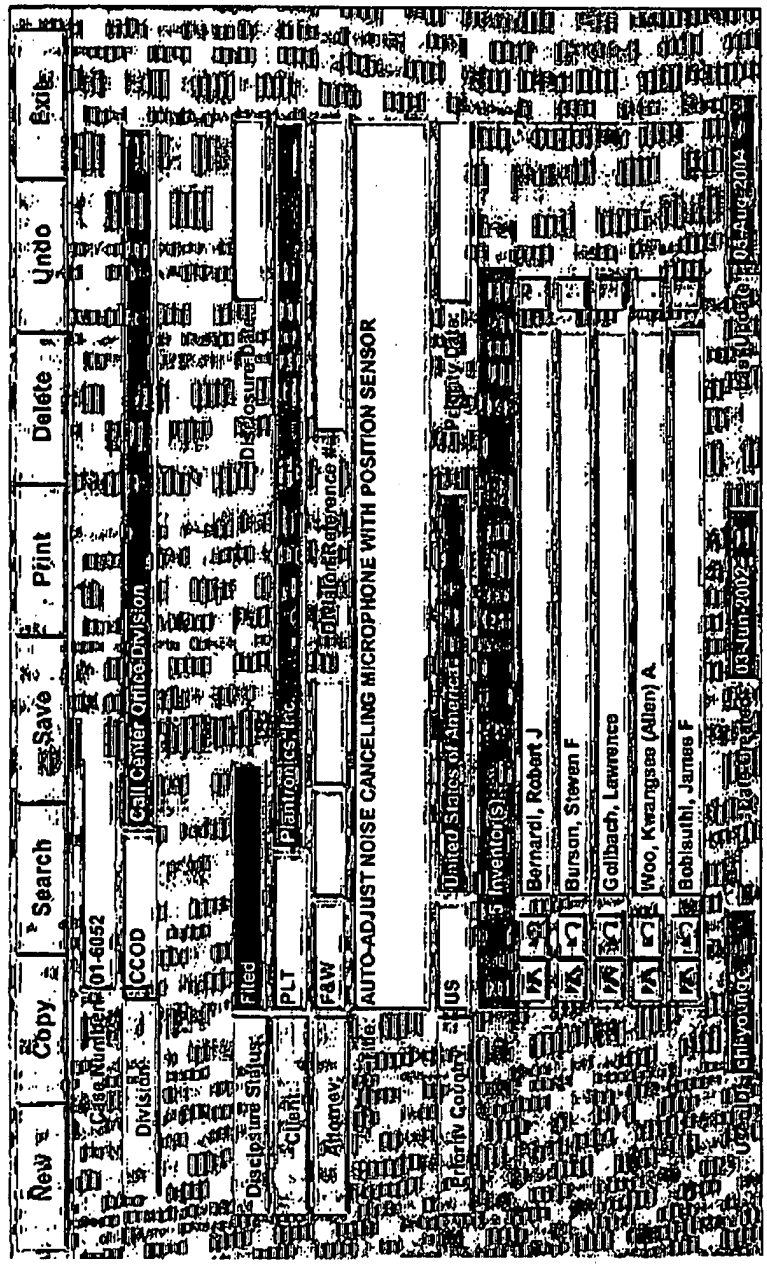
If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

Encl. Copy of docket record as it appears in the electronic file

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 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.



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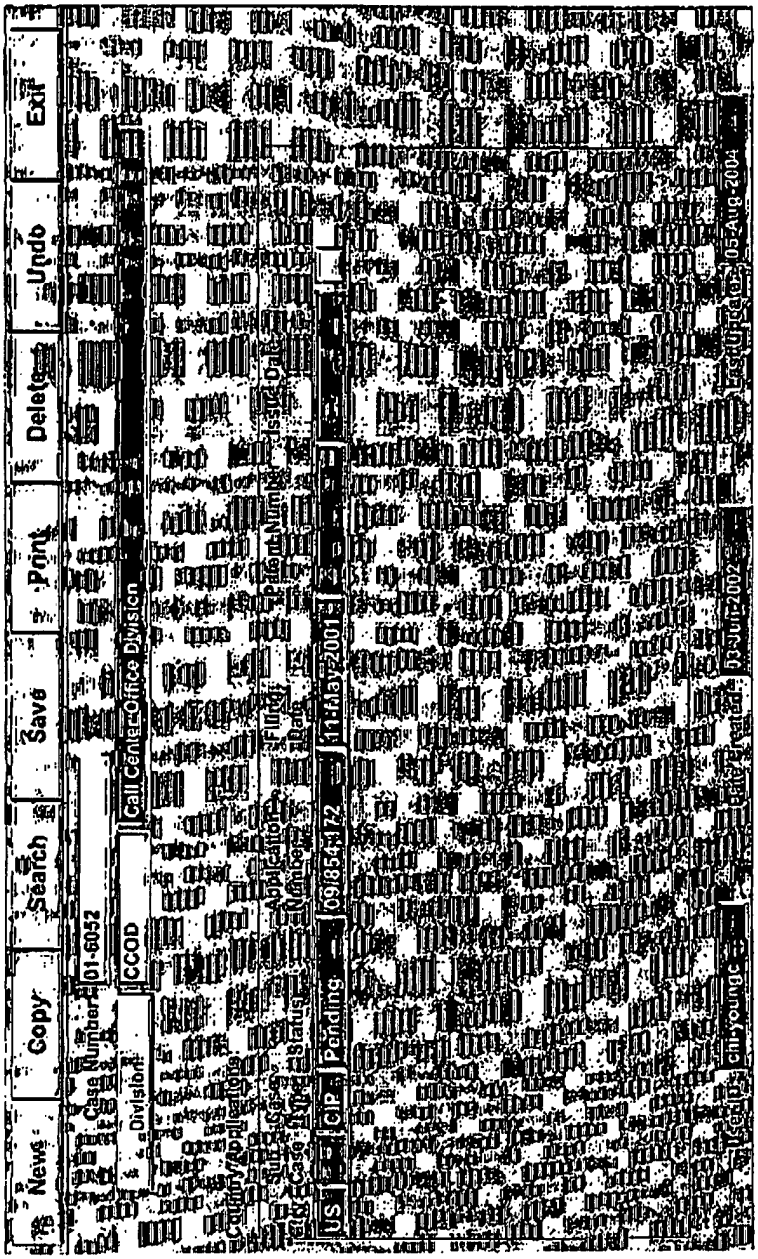

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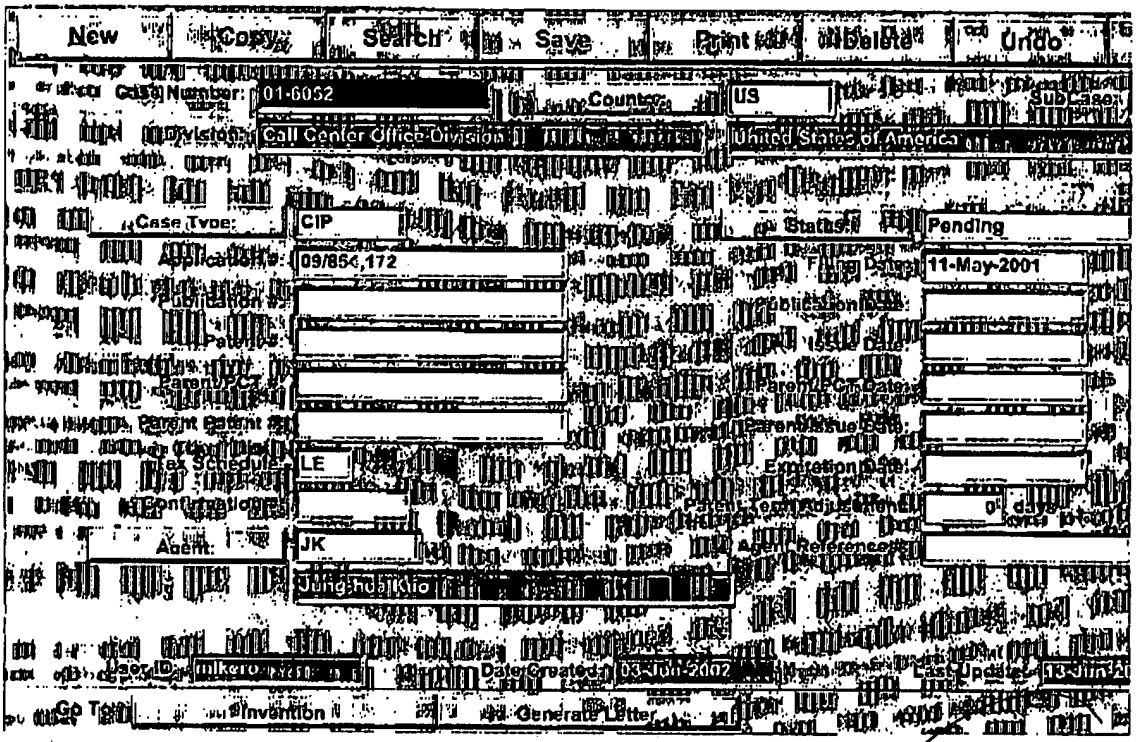

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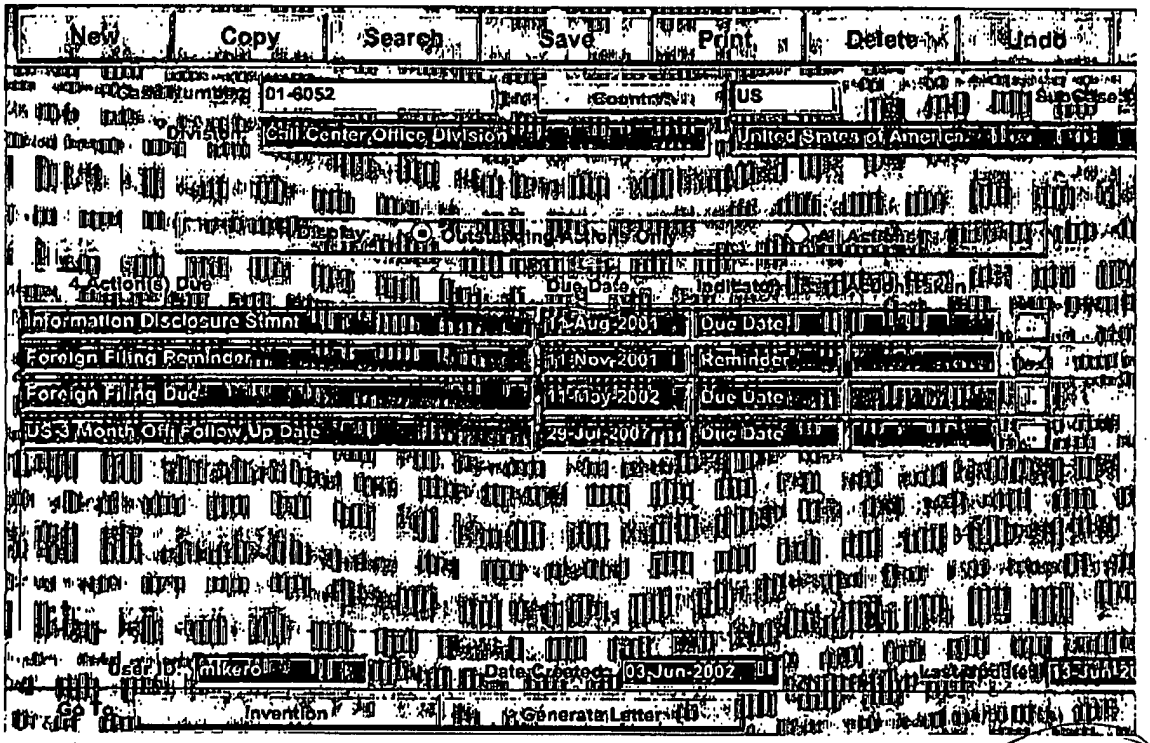

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SANTA CRUZ CA 95060-0635

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Robert J. Bernardi et al. :
Application No. 09/854,172 : DECISION ON RENEWED
Filed: May 11, 2001 : PETITION PURSUANT TO
Attorney Docket No. 18864-06052US : 37 C.F.R. § 1.181(A)
Title: AUTO-ADJUST NOISE CANCELING MICROPHONE WITH POSITION SENSOR :

BACKGROUND

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed November 21, 2007, to withdraw the holding of abandonment.

This renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007.

An original petition was filed on August 28, 2007, which was dismissed via the mailing of a decision on October 1, 2007, as the documentation that Petitioner submitted did not appear to be electronically reproducible.

1 See MPEP § 710.02(e).

RELEVANT PORTION OF THE MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With the original petition, Petitioner included a statement that a thorough search of the file jacket and docket records was conducted, and that the relevant Office communication was not located.

With this renewed petition, Petitioner has submitted an electronically reproducible copy of the records used by Petitioner, where the non-received Office action would have been entered had it been received.

The showing with this renewed petition cannot be granted, for the following two reasons.

First, Petitioner has neither submitted a master docket for the firm, as defined in the portion of the MPEP reproduced above, nor has he stated that no such master docket exists.

Second, the individual docket record for the application that was provided with this renewed petition has been reviewed by the undersigned, and the records do not appear to be complete. Petitioner has included what appears to be a screen shot of a computerized docketing system that is associated with this particular application. Petitioner has submitted a copy of the screen that shows only the "outstanding actions," and it is clear that the relevant Office communication does not appear on this screen. However, there is also a tab entitled "all actions," and this tab was not selected. As such, it appears that this docketing system allows the user to review a list of all actions that are/were associated with this application, but Petitioner has not provided a copy of this screen shot. As such, Petitioner's submission is incomplete.

On second renewed petition, Petitioner should provide either a copy of the master docket, or state that no such master docket exists. Additionally, Petitioner should include an

electronically reproducible copy of the "all actions" screen shot.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5]. Alternatively, Petitioner may submit a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 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.

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COMMISSIONER FOR PATENTS
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JUL 08 2008

OFFICE OF PETITIONS

In re Application of :
Robert J. Bernardi et al. :
Application No. 09/854,172 : DECISION ON SECOND RENEWED
Filed: May 11, 2001 : PETITION PURSUANT TO
Attorney Docket No. 18864-06052US : 37 C.F.R. § 1.181(A)
Title: AUTO-ADJUST NOISE CANCELING MICROPHONE WITH POSITION SENSOR :

BACKGROUND

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.181(a), filed June 6, 2008, to withdraw the holding of abandonment.

This second renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007.

An original petition was filed on August 28, 2007, which was dismissed via the mailing of a decision on October 1, 2007, as the documentation that Petitioner submitted did not appear to be electronically reproducible.

1 See MPEP § 710.02(e).

A renewed petition was filed on November 21, 2007, and was dismissed for failing to:

- either include a copy of the master docket for the firm or indicate that no such master docket exists, and;
- include a complete copy of the individual docket record for this application.

With this second renewed petition, Petitioner has:

- indicated that no master docket exists, and;
- included a complete copy of the individual docket record for this application.

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three-month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notice of Allowance and Issue Fee Due.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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.

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Greenlee Winner and Sullivan PC
5370 Manhattan Circle
Suite 201
Boulder, CO 80303

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JUL 15 2004

OFFICE OF PETITIONS

In re Application of :
Michael Wand, et al. :
Application No. 09/854,181 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. 43-00 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 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

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
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Pillsbury Winthrop LLP
Intellectual Property Group
11682 El Camino Real
Suite 200
San Diego, CA 93102

MAIL

FEB 0 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Benson HOUGLAND, et al.
Application No. 09/854,186
Filed: May 11, 2001
For: XML-ENABLED CONTROL AND MONITORING METHOD AND APPARATUS

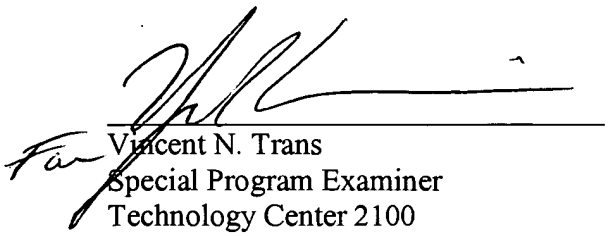
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 12, 2004.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/25/07 Paper No.: ____

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7217412

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:

Gary B. Nickol
SPE

1646
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DFW May-06

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

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of :
Bilardi et al. :
Application No. 09/854,213 : DECISION ON PETITION
Filed: 11 May, 2001 :
Atty Docket No. YOR920010439US1 :

This is a decision on the petition filed on 21 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 17 September, 2003, for failure to timely submit the issue and publication fees in response to the Notice of Allowance mailed on 16 June, 2003, which set a three (3) month period for reply. Notice of Abandonment was mailed on 17 October, 2003.

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

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

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

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

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

Petitioners state, *inter alia*, that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

The record does not necessitate a finding that the delay between 17 September, 2003, and 23 March, 2006, was not unintentional.

Rather, the Patent and Trademark Office is relying on petitioners' duty of candor and good faith and accepting the statement that the entire delay in filing the required reply and until the filing of the petition was unintentional.[2]

The revocation and power of attorney and change of correspondence address is accepted.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

[2]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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Laurence Newell
Application No. 09/854,246
Filed: May 11, 2001

For: SYNCHRONIZING NODES IN AN OPTICAL COMMUNICATIONS SYSTEM UTILIZING FREQUENCY DIVISION MULTIPLEXING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 15, 2005.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

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

Kenneth A Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: CORA FEDOMOCK
BERKELEY LAW & TECHNOLOGY GROUP, LLC
1756-114TH AVENUE, S.E.
SUITE 110
BELLEVUE, WA 98004

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STEVEN J. SARUSSI
McDONNELL BOEHNEN HULBERT & BERGHOFF
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Susan M. Garthwaite et al :
Application No. 09/854,264 : ON PETITION
Filed: May 11, 2001 :
Attorney Docket No. 01-597 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 10, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 11, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/121,638.

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R Burns Israelsen
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of :
Summers et al. : DECISION ON
Application No. 09/854,308 : PETITION
Filed: May 11, 2001 :
Attorney Docket No. 14999.39.1:

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION, filed May 5, 2006.

The petition is **GRANTED**.

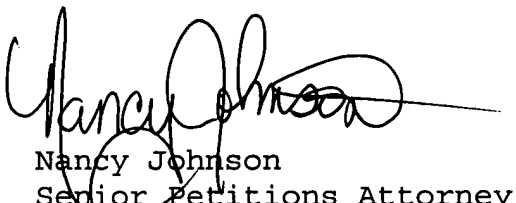
The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, November 4, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on February 5, 2006. A courtesy Notice of Abandonment was mailed on March 31, 2006.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

[1] There was no distinct but concurrent requirement for new drawings.

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
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SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE CA 92614-7230

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Neev
Application No. 09/854,311
Filed: May 10, 2001
For: OPTO-THERMAL MATERIAL MODIFICATION

NOTICE TO FILE CORRECTED APPLICATION PAPERS

The reply filed on June 30, 2003 is not fully responsive to the prior Office Action because: The substitute specification does not commence on page one (1), the abstract is not provided in clean form and the claims do not start with "I claim" or "We claim".
Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time 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. A fully responsive reply must be timely filed to avoid abandonment of this application.

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

By fax:	Attn: Office of Patent Legal Administration (703) 746-9194
By mail:	Mail Stop DAC U.S. Patent and Trademark Office Washington, D.C. 20231
By hand:	Crystal Plaza Four, Suite 3C23 2201 South Clark Place Arlington, VA 22202

Telephone inquiries with regard to this communication should be directed Mark O. Polutta at (703) 308-8122.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of :
Joseph NEEV :
Application No. 09/854,311 :
Filed: May 10, 2001 :
Attorney Docket No. YBEAM-03 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of March 2, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 3, 2004.

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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1) the required reply.

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, 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.

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 Amelia Au at (571) 272-7414.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Attachment: Advisory Action (PTOL-303)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of
Joseph NEEV
Application No. 09/854,311
Filed: May 10, 2001
Attorney Docket No. YBEAM-03

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the request for reconsideration filed October 17, 2005 on the petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 2, 2004 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 3, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and amendment under 37 CFR 1.114; (2) the petition fee of $750 for a small entity; 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.

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 Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 3739 for appropriate action.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Hickman Palermo Truong & Becker
1600 Willow Street
San Jose, CA 95125-5106

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DEC 0 4 2001

OFFICE OF PETITIONS

In re Application of
Eric Yang et al.
Application No. 09/854,330
Filed: May 11, 2001
For: Contract Management System

: DECISION GRANTING
: PETITION

This is a decision on the paper styled "Petition To Correct Filing Receipt" filed July 27, 2001, requesting that the above-identified application be accorded a filing date of May 11, 2001, rather than the presently accorded filing date of May 14, 2001. The request is properly being treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was filed on May 11, 2001. In support of the petition, petitioner has provided a copy of an "Express Mail" mailing label bearing "Express Mail" label no. EL624353193US, the same "Express Mail" label number which appears on the original application transmittal letter. Petitioner requests that the application be accorded a filing date of May 11, 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 11, 2001.

The petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a Corrected Filing Receipt.

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

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

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

UNITED STATES
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Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

JUN 24 2003

#12

WAK

In re Application of	:	
Davies et al.	:	
Serial Number: 09/854,333	:	DECISION
Filed: May 11, 2001	:	ON
For: Optical Data Media With Enhanced Contrast	:	PETITION

This is in response to the request filed December 24, 2002, requesting permission for withdrawal as attorney from the above-identified application and change of correspondence address.

The Request is **Denied**.

The attorney requesting the withdrawal is no longer of record in the file. A previous request filed by the attorney on November 05, 2002 for withdrawal as attorney from the above-identified application and change of correspondence address was granted.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

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JUN 10 2004

OFFICE OF PETITIONS

In re Application of :
Brian S. Medower et al :
Application No. 09/854,333 :
Filed: May 11, 2001 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 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 June 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 2003.

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

The application file is being forwarded to Technology Center AU 1756 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

NORMAN H. ZIVIN
COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Hendrick, Colin
Application No. 09/854,336
Filed: May 11, 2001
Attorney Docket No. 64482

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 15, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 14, 2003. A Notice of Abandonment was mailed on August 25, 2003.

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

The amount of the fee for a petition under 37 C.F.R. § 1.137(b) is determined at the time the fee is paid in full. At the time the petition was filed, the petition fee was $665.00 rather than $620.00. Therefore, an additional $45.00 has been charged to petitioner's deposit account as authorized.

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

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

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

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COMMISSIONER FOR PATENTS
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Paper No. 021404

Pamela Adams/ Patent Administrator
LeBoef, Lamb, Greene & MacRae LLP
1875 Connecticut Ave. N.W., Suite 1200
Washington DC DC 20009

MAR 2 2004

In re Application of:
WAGNER *et al.*
Serial No.: 09/854,344
Filed: May 11, 2001
Attorney Docket No.: **Color-Spec-App**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 22, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Elizabeth Stanley, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below 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: ColorSpec Technologies, Inc.
3225 East Second Avenue
Denver, CO 80206

MAILED
FROM DIRECTORS OFFICE

APR 10 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

TECHNOLOGY CENTER 3600

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

SHAHAN ISLAN, ESQ.
ROSENMAN & COLIN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

In re application of
Wole Fayemi
Application No. 09/854,347 : DECISION ON REQUEST
Filed: May 11, 2001 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD OF : ATTORNEY
CREATING MASS-CUSTOMIZED
MULTI-COMPONENT ARTICLES

This is a decision on the request filed on May 23, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B) the reason "Dispute with client" is not an acceptable reason for an attorney to withdraw. Condition B can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1) or (c) (1)-(6).

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
571-272-6619

RAR/dcg: 3/14/06

cc: Katten Muchin Rosenman, LLP
575 Madison Avenue
New York, NY 10022-2585

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

PAPER NO. 21

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

COPY MAILED

AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of
David A. Fell, et al.
Application No. 09/854,360
Filed: May 11, 2001
Attorney Docket No. 16,925

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on August 20, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3765 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

UR
PAPER NO. 7

JAN 17 2003

In re Application of	:	
David G. Frank et al.	:	DECISION
Serial No. 09/854,362	:	ON
Filed: May 15, 2001	:	PETITION
For: APPARATUS FOR AND METHOD OF FORMING SEALS IN FUEL CELLS STACKS:	:	UNDER 708.02,V

This is in response to the petition filed December 16, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

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

H. Samuel Frost
Bereskin & Parr
40 King Street West, Box 401
Toronto, Ontario, M5H 3Y2
CANADA

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

SKJERVEN MORRILL MACPHERSON LLP
SUITE 700
25 METRO DRIVE
SAN JOSE, CA 95110-1349

COPY MAILED

OCT 2 2 2001

OFFICE OF PETITIONS

In re Application of
Brundridge, et al.
Application No. 09/854,364 : ON PETITION
Filed: May 11, 2001
Attorney Docket No.: M-11598 US
For: DYNAMIC DISPLAY OF PERSONAL
COMPUTER SUPPORT INFORMATION

This is a decision on the petition filed August 2, 2001, requesting that the above-identified application be accorded a filing date of May 11, 2001.

The application was filed May 11, 2001. On July 11, 2001, a Notice of Incomplete Nonprovisional Application ("Notice") was mailed. The Notice indicated that the application was not accorded a filing date because the application was deposited without a drawings as per 35 U.S.C. 113.

In response, petitioner argues that the "Notice" was mailed in error, since the application was filed with six (6) sheets of drawings. Petitioner presents evidence of Office receipt of the drawings in the form of a return postcard stamped by the Office acknowledging receipt of six (6) sheets of drawings.

The original formal drawings submitted with the application papers have not been located. However, in view of the evidence presented, the petition is **GRANTED**.

Since the original drawings cannot be located in the Office, the duplicate set of drawings submitted with the instant petition will be used for examination purposes.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of May 11, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GINA N. SHISHIMA
FULBRIGHT & JAWORSKI LLP
A REGISTERED LIMITED LIABILITY PARTNERSHIP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Richard C. Conrad :
Application No. 09/854,412 : DECISION GRANTING PETITION
Filed: May 11, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AMBI:073US/GNS :

This is a decision on the petition, filed July 26, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 2, 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.

Please note, the $300.00 publication fee under 37 CFR 1.18 has been charged to deposit account no. 50-1212.

This application is being forwarded to Publishing Division for processing into a patent.

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

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

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

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Gerald Horn	:	
Application No. 09/854,414	:	
Filed: May 10, 2001	:	
Atty Docket No.:	:	
HORN006CIP	:	

This is a decision on the Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Mailed or Filed Pursuant to 37 CFR §1.181, filed December 9, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 13, 2005. The notices set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on July 14, 2005. A Notice of Abandonment was mailed on October 20, 2005.

Applicant asserts that a timely reply to the Office action to wit - an Amendment, was filed in the Office, along with an Information Disclosure Statement ("IDS") and a Petition for Extension of Time. In support of this assertion, applicant files copies of an Amendment, IDS and an Extension of Time Request, and a return receipt postcard which acknowledges receipt by this Office of, inter alia, a Response to Office action (12 pages); an IDS and Supplemental IDS; a Petition for Extension of Time, and a Transmittal Letter.

A review of Office records reveal that this Office received Response to Office action (12 pages); an IDS and Supplemental IDS; a Petition for Extension of Time, and a Transmittal Letter on October 14, 2005.

A review of the Transmittal Letter reveals that it lists a Response to Office action (12 pages); an IDS and Supplemental IDS; a Petition for Extension of Time, and a Transmittal Letter as having been transmitted to this Office, and includes a Certificate of Mailing dated October 11, 2004. A further review of Office records reveal that Applicant was charged, inter alia, the fee for a three month extension of time on October 14, 2005.

Under 37 CFR 1.8

> "[c]orrespondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
>
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

In view of the foregoing, Notice of Abandonment is hereby vacated, and the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being forwarded to Technology Center Art Unit 1618 for processing of the Response, filed October 11, 2005, in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 703-305-0014.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

Mark D. Kirkland
FISH & RICHARDSON P.C.
2200 Sand Hill Road, Suite 100
Menlo Park, CA 94025

MAIL

JUN 13 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Nacdet Uzun and Mete Yilmaz
Application No. 09/854,416
Filed: May 11, 2001
For: WEIGHTED FAIRNESS DECISIONS IN A SRP FORWARDING BLOCK

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 20, 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 filed September 20, 2001 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: Sam Campbell, Esq.
SKJERVEN, MORRILL, MACPHERSON LLP
9600 Great Hills Trail, Suite 300 W
Austin, TX 78759

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CAMPBELL STEVENSON ASCOLESE LLP
4807 SPICEWOOD SPRINGS RD
BLDG 4 SUITE 201
AUSTIN TX 78759

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JAN 2 4 2006

OFFICE OF PETITIONS

In re	: DECISION REGARDING
Uzun, et al.	: PATENT TERM ADJUSTMENT
Application No. 09/854,416	:
Filed: May 11, 2001	:
Attorney Docket No. CIS0161US	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705", filed January 5, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred fifty (550) days to seven hundred seventy-four (774) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **seven hundred seventy four (774) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 6, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred fifty (550) days. On January 5, 2006, applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is

[1] Applicants filed the PTA application with the issue fee.

seven hundred seventy-four (774) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants assert entitlement to a patent term adjustment of seven hundred seventy-four (774) days on the basis that the PTO improperly assessed applicants a delay of two hundred twenty-four (224) days for responding to an Office action mailed on August 23, 2004.

The Office initially determined a patent term adjustment of five hundred fifty (550) days based on an adjustment for PTO delay of seven hundred seventy-four (774) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of two hundred twenty-four (224) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 224 days is at issue.

The adjustment of 224 days has been found to be incorrect. Because the Office action mailed on May 10, 2005 restarted the period for reply, applicants should not have been assessed any delay for timely filing their response on July 5, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred seventy-four (774) days** (774 days of PTO delay and 0 days of applicant delay).

Tthe $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-2306, as authorized.

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

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

Kery Fries

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

Enclosure: Copy of Revised PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071009

DATE : October 9, 2007

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction on Patent No.: 6,564,308

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:

10/09/07

SPE: Hyung Sough — **Art Unit** 2188

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KENYON & KENYON
Suite 700
1500 K Street, N.W.
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Samuel Bogoch	: DECISION ON REQUEST FOR
Patent Number	: 7658935	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/854,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON
Suite 700
1500 K Street, N.W.
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Samuel Bogoch	: DECISION ON REQUEST FOR
Patent Number	: 7658935	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/854,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** 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 OF PATENTS

December 28, 2004

Celera Genomics Corp.
Attn: Wayne Montgomery, Vice Pres, Intel Property
45 West Gude Drive
C2-$#20
Rockville, MD 20850

In re application of:
Ellen . Beasley, et al
No.: 09/854,575
Filed: April 3, 2001
For: ISOLATED HMAN TRANSPORTER PROTEIN et al

In response to the petition received on December 11, 2003, to withdraw the holding of abandonment in the above application. The office is requesting a data disk containing the raw sequence listing. Since, the disk filed on April 3, 2001 was blank. Please submit the disk to complete the application.

The attorney has two months from the date of this letter to submit the data disk for competition of the above application.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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OFFICE OF PETITIONS

In re Application of	:	
Furui et al.	:	
Application No. 09/854,617	:	DECISION GRANTING PETITION
Filed: 14 May, 2001	:	UNDER 37 CFR 1.55(c)
Atty Docket No. JP9-2000-0025	:	
(8728-5)	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on 30 December, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Japanese Application No. 2000-142110, filed on 15 May, 2000.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the

claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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

The above-identified pending nonprovisional application was filed on 14 May, 2001, which is after November 29, 2000 and within 12 months of 15 May, 2000 (the filing date of the foreign application to which benefit is now being claimed). On 14 January, 2003, 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 $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted.**

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

This application is being forwarded to Technology Center AU 2145 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).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

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

Encl: Corrected Filing Receipt

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NOV 19 2003

Paper No. 6

In re Application of
George Bartlett
Application No. 09/854,618
Filed: May 14, 2001
Attorney Docket No. 01-165

: DECISION ON PETITION

This is a decision on the petition filed on June 24, 2003 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 23, 2002. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was timely filed. Petitioner supports this allegation by furnishing a copy of the reply, a copy of a petition for a two month extension which includes authorization to charge the extension fee, and a copy of a post card receipt showing that these papers were filed on January 7, 2003. As this date is within the period for filing a reply as set within the Office letter dated August 23, 2002, as extended by the petition for extension of time, it is clear that this application is not in fact abandoned. Note is also taken that Office financial records show that the $200.00 extension of time fee was in fact charged.

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 January 7, 2003.

PETITION GRANTED.

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

George A. Coury
Bachman & LaPointe, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/15/06 7/20/06

Paper No.: ———

TO SPE OF : ART UNIT 2174

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/854624 Patent No.: 7000196B2

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: Does not change the scope of the claims, simply rearranged the claim language to read more fluently.

Kristine Kincaid — SPE

2174 — Art Unit

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Paper No. 8

Silverbrook Research PTY LTD
393 Darling Street
Balmain, 2041
Australia

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook :
Application No. 09/854,703 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. YU106US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1) above.

Petitioner has not submitted the complete filing fee as required in the Notice to File Missing Parts (Notice) mailed July 3, 2001 and the Notice of Incomplete Reply mailed December 5, 2001.

In the instant petition, it is stated, "The Applicants are also confused by the request for late filing fee or oath or declaration surcharge requested in the second point of the Notice of Missing Parts, as the Declaration was submitted at the time of the original filing of the application." Petitioner is correct in that the Declaration was submitted at the time the application was filed. However, the filing fee was deficient. Accordingly, a surcharge is required when there is an insufficient filing fee ("a **late filing fee** or oath or declaration **surcharge as set forth in 37 CFR 1.16(e)...must be submitted**").

It is noted that the Notice required an additional $10 to complete the small entity filing fee and $65 for the small entity late filing fee surcharge. However, petitioner has stated that the application does not, in fact, qualify for small entity status. It is also noted that the an attempt to charge the filing fee to petitioner's credit card was made upon the filing of the application, but it was declined by the credit card company. Therefore, the application was considered as having no filing fee present. In view thereof, the $345 filing fee was **not** processed. Since the application qualifies as a large entity, the filing fee required is $770, the late filing fee surcharge is $130, and the unintentional petition fee is $1330, which sums up to $2,230. Petitioner has tendered a check in the amount of $1440. Accordingly, petitioner owes a balance of $790. The application cannot be revived until all required fees have been paid. A schedule of USPTO Fees is attached herewith for petitioner's use.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

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

Attachment: Schedule of USPTO Fees Effective October 1, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 12

Silverbrook Research PTY LTD
393 Darling Street
Balmain, 2041
Australia

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook, et al. :
Application No. 09/854,703 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. YU106US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 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 the Office of Initial Patent Examination for further processing.

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

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United States Patent and Trademark Office
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Paper No. 7

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

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SEP 12 2003

OFFICE OF PETITIONS

In re Application of :
Eric R. Ward et al :
Application No. 09/854,721 : DECISION GRANTING PETITION
Filed: May 15, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NETC-P004 :

This is a decision on the petition, filed April 30, 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 May 15, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 25, 2003 accompanies this decision on petition.

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 address submitted August 20, 2003 is not signed by an attorney of record.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 3622 for examination in due course.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc:
HOWARD J. KLEIN
KLEIN, O'NEILL & SINGH
2 PARK PLAZA, SUITE 510
IRVINE, CA 92614

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

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OFFICE OF PETITIONS

In re Application of	:	
Heubel et al.	:	DECISION ON PETITION
Application No. 09/854,723	:	TO WITHDRAW
Filed: May 14, 2001	:	FROM RECORD
Attorney Docket No. BELL-0068/00248	:	

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 9, 2005.

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 38952 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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 Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 13 2004

#18

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

In re Application of	:	
Stephen M. Allen et al	:	
Serial No.: 09/854,731	:	PETITION DECISION
Filed: May 14, 2001	:	
Attorney Docket No.: BB1171	:	

This is in response to the petition under 37 CFR 1.181, filed December 4, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on January 31, 2003, setting a three month statutory period for payment of the Issue Fee. On April 10, 2003, applicants filed an amendment, by facsimile, under 37 CFR 1.312 to correct minor errors. On April 24, 2003, applicants filed a petition to correct inventorship and RCE papers, by facsimile. On May 5, 2003, applicants filed a Revocation and New Power of Attorney by facsimile. On July 17, 2003, the Office mailed a Notice of Abandonment to applicants based on non-payment of the Issue Fee. This was mailed to applicants previous attorneys. The multiple submissions in April and May have all been located in the file, but not processed due to retrieval of the file for each new submission and mailing of the Notice of Abandonment. In view of the evidence presented the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application has been returned to TC 1600 for processing of the RCE papers and charge of the fees to Deposit Account NO. 03-2776, as directed. The application will then be forwarded to the examiner for consideration of the petition to correct inventorship.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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

TODD MATTINGLY
HAYNES AND BOONE, LLP
1000 LOUISIANA STREET, SUITE 4300
HOUSTON, TX 77002-501

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DEC 1 3 2001

OFFICE OF PETITIONS

In re Application of	:
Mark Bouzek et al.	:
Application No. 09/854,743	: DECISION GRANTING
Filed: May 14, 2001	:STATUS UNDER 37 CFR 1.47(a)
For: FAIR DISCLOSURE WEBSITE FOR THE OFFSHORE DRILLING INDUSTRY	:

This is in response to the petition under 37 CFR 1.47(a), filed September 18, 2001 and supplemented on November 30, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

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

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OCT 1 3 2006

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

In re Application of
Mark Bouzek et al
Application No. 09/854,743
Filed: May 14, 2001
Attorney Docket No. 29934.4

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Todd Mattingly on behalf of himself and all of the attorneys/agents associated with customer no. 27683.

All attorneys/agents of record have been withdrawn.

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

The correspondence address of record has been changed to that of the first signing inventor as indicated below.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

This application is being referred to Technology Center AU 3624.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MARK BOUZEK
4222 TERRACE PINES
KINGWOOD TEXAS 77345

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/16/09

TO SPE OF : ART UNIT 1796 Egwim Kelechi

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/854751 Patent No.: 6605662

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1796
SPE **Art Unit**

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LAW OFFICE OF MICHAEL N. COHEN, P.C.
9025 WILSHIRE BLVD., SUITE 301
BEVERLY HILLS, CA 90211

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Carlos HOYOS :
Application No. 09/854,764 : DECISION ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2008, 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 02, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 02, 2007, which set a statutory period for reply of three (3) months. Accordingly, the date of abandonment of this application is January 03, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue and publication fees as required by the Notice of Allowance is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Lahiri et al. : DECISION GRANTING PETITION
Application No. 09/854,786 :
Filed: May 14, 2001 :
Attorney Docket No. SP01-129 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2005 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 7, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. The present petition precedes the mailing of the Notice of Abandonment.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

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

Christina T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEP 26 2005

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING NYH 14831

In re Application of :
Joydeep Lahiri et al :
Application No. 09/854,786 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. SP01-129 :

This is a decision on the petition, filed September 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 1639 will consider the request for continued examination under 37 CFR 1.114.

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

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

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JUL 20 2005

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Bojidar M Stankov	:
Serial No.: 09/854,802	: PETITION DECISION
Filed: May 14, 2001	:
Attorney Docket No.: 1259-001	:

This is in response to the petition under 37 CFR 1.181, filed June 2, 2005, requesting the Director overrule an examiner's determination under 37 CFR 1.175(c).

A review of the file history shows that the examiner mailed a Final Office action to applicant on November 30, 2004, setting a three month shortened statutory period for reply. Included as part of the Office action was a section objecting to claims 17-18, 20-22 and 24 as failing to comply with 37 CFR 1.175(c) (further limit the claim from which they depend). Applicant filed an amendment, Notice of Appeal and Appeal Brief and a request for a three month extension of time and the appropriate fees for all on June 2, 2005, along with this petition. The petition requests the Commissioner (Director) to overrule the examiner's determination. 35 U.S.C. 112, fourth paragraph, provides the basis for 37 CFR 1,175(c) and could have been used to reject the claim. As such the matter would appropriate for the Board of Patent Appeals and Interferences to decide as it would have been based on the statute. However, inasmuch as the examiner used 37 CFR 1.175(c) as the basis for the objection, petition is the appropriate vehicle for resolution. A review of the claims shows the position of the examiner to not be justified. The requirement is therefore withdrawn.

The petition is **GRANTED**.

The application will be forwarded to the examiner for preparation of the Examiner's Answer or other appropriate action.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
Reiter et al. :
Application No. 09/854,811 : DECISION ON PETITION
Filed: 14 May, 2001 :
Attorney Docket No. 02307K-141581 :

This is a decision on the petition filed on 17 January, 2007,[1] under 37 CFR 1.137(b),[2] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 8 October, 2006, for failure to file a proper response to the final Office action mailed on 7 July, 2006, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[1] A duplicate copy of the petition correcting the examiner's name and invention title was filed on 26 January, 2007.

[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 continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

Petitioner has filed a Notice of Appeal as the required reply.

The Notice of Appeal filed 17 January, 2007, has been entered and made of record. Accordingly, the two (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 application is being referred to Technology Center Art Unit 1642 to await receipt of applicant's Appeal Brief.

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

1755

Status-41

1700

MCI/TC 1700 Central files

CP3-10C24

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

#9

SEP 21 2002

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OCT 07 2002
Office of Patent Publication
Director's Office

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OCT 23 2002
TC 1700

In re Application of:	:	
Lance E. Brothers, et al.	:	
Serial No. 09/854,857	:	NOTICE OF WITHDRAWAL
Filed: May 14, 2001	:	FROM ISSUE UNDER
For: CEMENTING IN DEEP WATER	:	37 CFR 1.313 (b)
OFFSHORE WELLS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to: reopening of prosecution. See 37 CFR 1.31(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 Mark Bell at (703) 308-3823.

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

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

C. Clark Dougherty, Jr.
McAfee & Taft
211 N. Robinson, 10th Floor
Two Leadership Square
Oklahoma City, OK 73102

Cc: Allowed Files-PK3-915

91 1731/Tech Center 1700 1200

1745/TC 1700

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SEP 21 2002

#18

RECEIVED
OCT 23 2002
TC 1700

In re Application of	:	
William H. Kump	:	
Serial No. 09/379,051	:	WITHDRAWAL
Filed: August 23, 1999	:	FROM
For: SEALED LEAD-ACID CELLS AND BATTERIES HAVING AN EXPANDABLE COVER	:	ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

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 be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Leydig Voit & Mayer LTD
Two Prudential Plaza
Suite 4900
180 North Stetson
Chicago, IL 60601-6780

cc: Allowed Files CPK3-915

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DEC 21 2004

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
Robert L. P. Penteado et al	:	
Serial No.: 09/854,859	:	WITHDRAWAL OF ATTORNEY
Filed: May 14, 2001	:	
Attorney Docket No.: 211267	:	

This is in response to applicants' attorneys' request, filed December 2, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

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

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

Petition Granted _____

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

Petition Granted _____

☒ Petition Granted petition filed under 37 CFR 1.84(a)(2)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 12

SEAN M. CASEY CO., L.P.A.
ATTENTION: SEAN M. CASEY
P.O. BOX 710
NEW ALBANY OH 43054-0710

COPY MAILED

OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of
Jerry Joseph Quinn
Application No. 09/854,891
Filed: May 14, 2001
Attorney Docket No. 52466.002

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned September 3, 2003 for failure to timely reply to the final Office Action mailed June 2, 2003. An amendment, filed October 7, 2003, was considered and the applicant was advised in an advisory action mailed October 29, 2003, that the amendment did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed December 30, 2003.

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

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A Request for Continued Examination (RCE) and an amendment have been submitted in response to the Final Office action and in compliance with 37 CFR 1.114. The RCE fee has been applied.

The application is being forwarded to Technology Center 1743 for processing of the RCE and amendment.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

STEPHEN M. BENEY
BERESKIN & PARR
40 KING STREET WEST
BOX 401
TORONTO, ONTARIO, CANADA M5H 3Y2

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NOV 0 5 2001

OFFICE OF PETITIONS

In re Application of
Brian Moore
Application No. 09/854,905
Filed: May 15, 2001
Attorney Docket No. 11157-23

ON PETITION

This is a decision on the petition filed October 5, 2001, which is being treated as a petition under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 USC 119 (a) through (d) for benefit of the filing date of foreign Canadian Application No. 2,308,820, filed May 15, 2000.

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 $1,280.00, 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)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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 15, 2001, which is after November 29, 2000 and within 12 months of May 15, 2000 (the filing date of the foreign application to which benefit is now being claimed). An Application Data Sheet which identifies the foreign application for which priority is claimed by application number, country and filing date was filed with the instant petition. The required petition fee of $1,280 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 USC 119(a) through (d) is **granted.**

A corrected filing receipt which includes the foreign priority claim to Canadian Application No. 2,308,820, filed May 15, 2000, and the revised projected publication date, February 7, 2002, of the instant application accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2858 for consideration by the examiner of the foreign priority claim under 35 USC 119(a) through (d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8680.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

STEPHEN M. BENEY
BERESKIN & PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2 CA CANADA

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Brian Moore :
Application No. 09/854,905 :
Filed: May 15, 2001 : DECISION ON PETITION
Attorney Docket No. 11157-23 :

This is a decision on the petition filed on April 6, 2002, requesting the application be accorded a filing date of May 15, 2001, including page 20 of the specification.

The application was filed on May 15, 2001. However, on July 11, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the basic filing fee, additional claim fee, and an executed oath or declaration. The Notice to File Missing Parts made no mention of the specification. Petitioner responded to the Notice on September 4, 2001, and filed the filing fee, additional claims fee, and oath or declaration and surcharge.

Subsequently, on March 12, 2002 this Office mailed a Withdrawal of Previously Sent Notice, withdrawing a Notice mailed on September 25, 2001[1], and enclosing a corrected Notice. The corrected notice, a Notice of Omitted Item(s) in a Nonprovisional Application, required page 20 of the specification.

Petitioner argues, *inter alia*, that page 20 of the specification was included among 44 pages of specification filed initially, on May 15, 2001, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 44 pages of specification filed on May 15, 2001.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 44 pages of specification, by this Office on May 15, 2001. Petitioner has also re-submitted page 20 of the specification with the instant petition.

---

[1] Office records reveal that no Notice was mailed on September 25, 2001, in the above-identified application.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "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 items listed thereon by the PTO." MPEP § 503.

The petition is **granted**.

The copy of page 20 of the specification, supplied on April 8, 2002, will be used for examination purposes.

No petition fee is required. A refund of the petition fee, $130.00, has been scheduled.

The application will be returned to the Initial Patent Examination Division for further processing as a nonprovisional application with a filing date of May 15, 2001, and an indication that 44 pages of specification, including page 20 of the specification, were present on filing.

Thereafter the application will be returned to Technology Center AU 2829 for processing in due course.

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

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

Conferee: Christina Donnell, Esq.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6-24-02

2 Serial/Patent # 09/854,905

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	12	4-8-02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

- ✓ Treasury Check
- Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- Overpayment
- Duplicate Payment
- ✓ No Fee Due (Explanation):

Office error.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: DEREK L. WOODS TITLE: Attorney

SIGNATURE: Derek Woods PHONE: 305-0014

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 7/18/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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OFFICE OF PETITIONS

GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

In re Application of
Juan Agudo et al.
Application No. 09/854,913
Filed: May 14, 2001
Attorney Docket No. 056527-0005

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 08, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 20572. 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).

Nicholas A. Kees signed the request on behalf of all attorneys of record.

Nicholas A. Kees and all attorneys/agents associated with application have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Juan Pablo Agudo
Dorrego 2150
Martinez- Pcia- Buenos Aires
Argentina

Cc: Baker & McKenzie
Av. Leandro N. Alem 1110 – Piso 13
(1001 Buenos Aires
Argentina

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Juan Pablo Agudo
Dorrego 2150
Martinez – Pcia
Buenos Aries AR
ARGENTINA

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FEB 13 2008

In re Application of	:	
Juan Pablo Agudo et al.	:	
Application No. 09/854,913	:	DECISION ON PETITION
Filed: May 14, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 27, 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 Notice of Non-Compliant Amendment mailed September 26, 2006, which set a shortened statutory period for reply of one month or thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2006. A Notice of Abandonment was mailed on May 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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

It is not apparent whether the person signing the petition was given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. 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 Office acknowledges receipt of $650.00 for the petition to revive fee. However, effective September 30, 2007 the small entity petition to revive fee is listed at $770.00. Therefore the deficiency of $120.00 has been charged to petitioner's deposit account, as authorized.

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 appropriate action by the Examiner in the normal course of business on the reply received December 27, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Adam L. Brookman
840 N. Plankinton Avenue
Milwaukee, WI 53203

09/554937

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 0104

DATE : 1/24/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,608,409

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Yes. Please print 1, 2, 6, 8, 9, 11, 12, 15 thru 18, and 20 as amended by the applicant on 1/21/2003 (our date stamp 6/25/03.) Also we need to print original claims 3-5, 7, 10, 13, 14, 19, 21-23 because they depend on the allowed claims 1, 9, and 17 and were not cancelled. The applicant should have included claims 3-5, 7, 10, 13, 14, 19, 21-23 in the amendment dated 1/21/03.

I contacted Mr. Nelson and let him know that the amended claims he submitted on 1/21/03 will be printed.

If you have any other questions, please let me know.

DANG LE
PRIMARY EXAMINER

SPE

2834
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. 6

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DEC 26 2001

OFFICE OF PETITIONS

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
P.O. Box 3030
Holmdel, NJ 07733--303

In re Application of
Kriaras, et al.
Application No. 09/854,962
Filed: May 14, 2001
For: TELEPHONE SYSTEMS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed on September 26, 2001 under 37 CFR §1.47(b).

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 14, 2001, without an executed oath or declaration. Accordingly, on July 10, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on September 26, 2001, applicant filed a $130.00 surcharge, a one month request for extension of time, the present petition, the declaration of Ms. Sarah Packham, correspondence mailed to the non-signing inventor, and an executed oath or declaration.

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) as set forth above. Neither the Affidavit of Ms. Packham nor the copies of correspondence mailed to the non-signing inventor indicate Mr. Kriaras was presented with application papers (specification, claims and drawings). Unless Mr. Kriaras was presented with a copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which he was given.

Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a copy of the application papers was presented to the inventor, but the inventor did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows:

By mail: 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
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Paper No. 6

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
P.O. Box 3030
Holmdel, NJ 07733--303

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OFFICE OF PETITIONS

In re Application of
Kriaras, et al.
Application No. 09/854,962
Filed: May 14, 2001
For: TELEPHONE SYSTEMS

ON RENEWED PETITION

This is in response to the renewed petition filed on February 25, 2002 under 37 CFR §1.47(a).

The renewed petition under 37 CFR 1.47(a) is **Dismissed as Moot**.

The above-identified application was filed on May 14, 2001, without an executed oath or declaration. Accordingly, on July 10, 2001, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on September 26, 2001, applicant filed a $130.00 surcharge, a one month request for extension of time, a petition, the declaration of Ms. Sarah Packham, correspondence mailed to the non-signing inventor, and a partially executed oath or declaration. The September 26, 2001 petition was dismissed on December 26, 2001 for failure to provide proof the entire application was submitted to inventor Kriaras and Kriaras refused to sign the oath or declaration.

As petitioner has filed a declaration complying with 37 CFR 1.63 for the above-identified application, there is no outstanding issue relative to the instant application that could be remedied by a petition filed pursuant to 37 CFR 1.47(a). The renewed petition is dismissed as moot by the filing of the executed declaration.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Patricia Faison-Ball
for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

James M. Durlacher
Woodard, Emhardt, Naughton, Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Paper No. 9

In re Application of :
Gary Zeik, et al. :
Application No. 09/854,970 :
Filed: May 14, 2001 :
For: SHIELDED STRUCTURE FOR RADIATION TREATMENT EQUIPMENT AND METHOD OF ASSEMBLY :

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 October 17, 2003.

The petition is **DISMISSED AS MOOT.**

A review of the file record indicates that applicant's *original* response to the outstanding office action mailed March 13 was received in the office on September 16, 2003. The response has a Certificate of Mail date of September 12, 2003 and a request for a three month extension of time for which applicant has already been charged.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status, enter the amendment, and forward the application to the examiner for appropriate action.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 1/5/04

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

The attorneys associated with Customer Number 25920 do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of himself and all attorneys of record in this application.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 1/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS, MI 49588-8695

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JUN 07 2004

OFFICE OF PETITIONS

In re Application of :
Scott T. Franson, et al. :
Application No. 09/854,997 : DECISION GRANTING PETITION
Filed: May 14, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. VIK01 P-340 :

This is a decision on the petition, filed May 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 17, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center Art Unit 3752 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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S. WADE JOHNSON
DORSEY & WHITNEY LLP
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Michael Oldenburg :
Application No. 09/855,001 : NOTICE
Filed: May 14, 2001 :
Attorney Docket No. 14036

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3676.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/21/04 09/855026 **Paper No.:** _____

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: ~~6727633~~

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:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
(SPE)

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THELEN REID & PRIEST, LLP
FOUNDRY
P.O. BOX 640640
SAN JOSE, CA 95164-064

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	DECISION ON PETITION
Application No. 09/855,038	:	TO WITHDRAW
Filed: May 15, 2001	:	FROM RECORD
Attorney Docket No. FDRY-0004-US	:	

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 18, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the David B. Ritchie and the other attorneys cited in the Request was 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 Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: FOUNDRY NETWORKS, INC.
4980 GREAT AMERICA PARKWAY
SANTA CLARA CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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HART, BAXLEY, DANIELS & HOLTON
FIFTH FLOOR
59 JOHN STREET
NEW YORK NY 10038

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Chi Yuan-Chin et al :
Application No. 09/855,044 : ON PETITION
Filed: May 15, 2001 :
Attorney Docket No. 12294 B :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 21, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 22, 2003.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The file is being referred to Publishing Division.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
CHARLES E. BAXLEY
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

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

#3

AUG 15 2001

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AUG 15 2001

Office of the Director
Group 3600

Paper No. 3

Pearne & Gordon LLP
526 Superior Avenue East, Suite 1200
Cleveland, OH 44114-1484

In re application of
Michael A. Bass
Application No. 09/855,062
Filed: May 14, 2001
For: SIGN AND METHOD FOR MARKETING GOODS AND SERVICES

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 15, 2001 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: 8/14/01

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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Paper No. 7

Howard I. Sobelman
SNELL & WILMER, L.L.P.
One Arizona Center
400 East Van Buren Street
Phonix, Arizona 85004-2202

MAILED

MAY 2 9 2003

Technology Center 2100

In re Application of:
Tucker et al.
Application No. 09/855,073
Filed: May 14, 2001
For: INFORMATION SECURITY METHOD AND SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed July 19, 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 19, 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

JRM

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Ms. Vanessa Henderson
Strategic Business Manager
NITONI PTY. LTD.
Unit 5, 8 Miller Street
Murarrie OLD 4172
Australia

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2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Goodman :
Application No. 09/855,103 :
Filed: May 14, 2001 :
Docket No.: 12128-060001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 1, 2005 for failure to timely submit the corrected drawings as required by the Notice of Allowability (Notice) mailed August 30, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed April 17, 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 Notice is accepted as having been unintentionally delayed.

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

Form PTO-948 (Rev. 06/03)
Application No. 09/855103

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 05/09/2003 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. _____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)_____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)_____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)_____

___ Poor quality (half-tone). Fig(s)_____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)_____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)_____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)_____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins: Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)_____

_____Top (T) _____ Left (L)
_____Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)_____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)_____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)_____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)_____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)_____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) _____

___ Solid black shading not permitted. Fig(s)_____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)_____

___ Figure legends are poor. Fig(s)_____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)_____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)_____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)_____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)_____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)_____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)_____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)_____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)_____

COMMENTS:

Reviewer SON LAM

Date 06/05/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
29/207,703	06/18/2004	John Chen	CHEN3692/EM

CONFIRMATION NO. 8203

OC000000019096745

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

Date Mailed: 06/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

ALESIA M BROWN
OP (571) 272-3205

FORMER ATTORNEY/AGENT COPY

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MINNEAPOLIS, MN 55402

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JUN 20 2006

OFFICE OF PETITIONS

In re Application of :
Lee Goodman :
Application No. 09/855,103 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 12128-060001

This is a decision on the petition filed, June 12, 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 November 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE- 46TH FLOOR
PHILADELPHIA, PA 19103

In re Application of :
KANEFSKY, Steven T. :
Application No. 09/855,117 : DECISION ON PETITION
Filed: May 14, 2001 : TO WITHDRAW
Attorney Docket No. CING-0036/573.US : 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 7, 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 Eduardo M. Carreras 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 March 7, 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: **STEVEN T. KANEFSKY**
16080 NE 85TH STREET, APT #407
REDMOND, WA 98052

cc: **PAUL HASTINGS JANOFSKY & WALKER LLP**
875- 15TH STREET, NW
WASHINGTON, DC 2005

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LEYDIG VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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In re Application of :
Adrian David **LINCOLN**, et al :
Application No. 09/855,142 : DECISION ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 211202 :

This is a decision on the petition filed October 16, 2007 requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative, petition to revive under 37 CFR 1.137(b). The petition is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper reply to the Office communication mailed, January 24, 2007, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the Office communication, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2145 for appropriate action by the Examiner in the normal course of business on the reply received October 16, 2007.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

DOCKET ADMINISTRATOR (ROOM 3J-219)
LUCENT TECHNOLOGIES INC.
101 CRAWFORDS CORNER ROAD
P.O. BOX 3030
HOLMDEL, NJ 07733-3030

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DEC 1 0 2001

OFFICE OF PETITIONS

In re Application of :
Ioannis Kriaras et al. :
Application No. 09/855,146 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 4-13-11-9 :

This is in response to the petition under 37 CFR 1.47(a), filed September 26, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), petitioner has not provided sufficient evidence that a copy of the application papers was sent or given to the non-signing inventor. Petitioner must show proof that a copy of the application (specification, claims and drawings) was sent or given to the non-signing inventor for review. Rule 47 applicant has failed to show or provide proof that the nonsigning inventor has refused to sign the declaration, after having been presented with a copy of the application papers. Did inventor Ioannis Kriaras receive the application papers? See Manual of Patent

Examining Procedure, Section 409.03(d). While the petition indicates that the declaration and assignment forms were mailed to inventor Kriaras, no evidence has been presented to show that a copy of the complete application papers was in fact presented to Mr. Kriaras. Before a refusal can be alleged, it must be demonstrated that a copy of the application papers was presented to the nonsigning inventor. If joint inventor Kriaras was not presented with a copy of the application papers, then Mr. Kriaras 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 Kriaras, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Kriaras' 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 MPEP 409.03(d).

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to 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
Box 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

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

DOCKET ADMINISTRATOR (ROOM 3J-219)
LUCENT TECHNOLOGIES INC.
101 CRAWFORDS CORNER ROAD
P.O. BOX 3030
HOLMDEL, NJ 07733-3030

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MAR 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Ioannis Kriaras et al. :
Application No. 09/855,146 :
Filed: May 14, 2001 : DECISION NOTING JOINDER OF
For: REAL TIME DATA TRANSMISSION : INVENTOR AND PETITION UNDER
SYSTEMS AND METHODS : 37 CFR 1.47(a) MOOT

Papers filed on February 8, 2002 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed December 10, 2001, included a Declaration signed by previously nonsigning inventor Ioannis Kriaras in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center 2600 for examination in due course.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6620595	2003-09-16	09855159	2001-05-14	89188.0295

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	/ljm/	Date (YYYY-MM-DD)	2008-03-28
Name	Lawrence J. McClure	Registration Number	44228

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. 6620595
Issue Date: September 16,2003
Application No. 09855159
Filed: May 14,2001
Attorney Docket No. 4-31439A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 28,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 28,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES, IL 60169

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OFFICE OF PETITIONS

In re Patent of	:	
May et al.	:	
Application No. 09/855188	:	DECISION
Filed: 05/14/2001	:	ON PETITION
Attorney Docket Number:	:	
KCC-14,829	:	

This is a corrected decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR § 41.3, filed October 3, 2006. The petition is properly treated under 37 CFR 1.181.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 16, 2005, wherein the Examiner rejected claims 1-17, 19-21 and 50-59. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on July 21, 2005, and Appeal Brief on September 19, 2005. The Examiner filed an Answer on November 11, 2005. Applicant then filed a Reply Brief on January 17, 2006. The case was set before the Board of patent Appeals and interferences ("Board"), which affirmed the Examiner.

The instant petition

Applicant files the instant petition and avers that a timely Request for Rehearing, which includes a Certificate of Mailing dated August 30, 2006, was filed, and avers that abandonment of the application is premature under 37 CFR 1.114; 1.304 and 41.52. Applicant contends that Applicant has two (2) months within which to respond to the Decision of the Board.

Analysis and decision

A review of office records reveals that Applicant filed a Request for Rehearing Under 37 CFR 41.52, which included a Certificate of Mailing dated August 30, 2006.

In view of the above, the petition to withdraw the holding of abandonment is granted.

The application is being returned to Technology Center 1771 to withdraw the holding of abandonment. Thereafter the application will be forwarded to the Board for consideration on the Request for a Rehearing.

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
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DIW Jun-05

STEVEN GARDNER, ESQUIRE
KILPATRICK STOCKTON, LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101-2400

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Hadzikadic et al. :
Application No. 09/855,220 : DECISION ON PETITION
Filed: 14 May, 2001 :
Atty Docket No. 46872/253153 :

This is a decision on the petition filed on 4 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

The application became abandoned on 31 December, 2004, for failure to file a proper response to the final Office action mailed on 30 August, 2004, which set a three (3) month shortened statutory period for reply. On 22 December, 2004, petitioner filed an amendment after final rejection and a one (1) month extension of time. The amendment did not place the case in *prima facie* condition for allowance, however, and an Advisory Action notifying applicant of such was mailed on 31 January, 2005. The present petition was filed prior to the mailing of Notice of Abandonment.

The present petition was filed on 4 May, 2005, along with a Request for Continued Examination and a response to the Advisory Action as the submission required by 37 CFR 1.114.

The application is being referred to Technology Center Art Unit 2167 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

Paper No. 5

KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland OR 97204-2988

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Sanjay Bhansali, et al. :
Application No. 09/855,239 : DECISION ON PETITION
Filed: May 14, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 3382-56370 :

This is a decision on the petition, filed May 27, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on April 19, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on March 4, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $1,300 is being credited to Deposit Account No. 02-4550 as authorized.

This application is being forwarded to Technology Center AU 2184 for examination in due course.

Any inquiries concerning this decision may be directed to Sherry Brinkley at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

WAGNER MURABITO & HAO
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of	:	
Rich Gioscia et al	:	DECISION GRANTING
Application No. 09/855,250	:	PETITION
Filed: May 14, 2001	:	
Attorney Docket No. PALM-3556.US.P	:	

This is a decision on the paper styled "Petition To Secure Filing Date..." filed September 17, 2001, requesting that the above-identified application be accorded a filing date of May 14, 2001, rather than the presently accorded filing date of May 15, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on May 14, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL827027919US, showing a Date-In of May 14, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition. Applicants request that the application be accorded a filing date of May 14, 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 14, 2001.

The petition is granted. Since the petition was a result of PTO's error, applicants may request a refund of $130 by writing to the Office of Finance, Refund Section. A copy of this decision should accompanying applicants' request.

A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2681 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

OIPE
MAR 2 2 2004
PATENT & TRADEMARK OFFICE

Pet. Dec.

PTO/SB/83 (09-03)

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/855,277
Filing Date	May 14, 2001
First Named Inventor	Lewis, Nathan S.
Art Unit	1743
Examiner Name	D. Handy
Attorney Docket Number	018564-001921US

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

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all the attorneys/agents associated with Customer Number **20350**

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: at the request of Applicant

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

Approved
JM Stone
Jacqueline M. Stone, Director
Technology Center 1700

JUL - 6 2004

☐ Customer Number

OR

☒ Firm *or* Individual Name	Foley & Lardner				
Address	3000 K Street, N.W.				
Address	Suite 500				
City	Washington	State	D.C.	ZIP	20007
Country	United States of America				
Telephone	202.672.5300	Fax	202.672.5399		
Name	Joseph R. Snyder				
Signature		Registration No.	39,381		
Date	March 18, 2004				

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

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UNITED STATES 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

JUL 16 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Robert W. Griffith
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley NY 11560

In re Application of: TAKENORI, Kohda et al.
Application No. 09/855,281
Filed: May 15, 2001
For: USER GUIDANCE METHOD, CONTENT ADVERTIZING METHOD, USER GUIDANCE SYSTEM, OBJECT CONTROL SYSTEM, MOVING OBJECT, STORAGE MEDIUM AND PROGRAM TRANSMISSION APPARATUS

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 file a reply to the communication letter of June 08, 2009. The Notice of Abandonment was mailed on June 25, 2009.

A review of the file record indicates an amendment dated July 16, 2008 was filed in response to the new ground of rejection pursuant to 37 C.F.R. 41.50(b) contained in the June 5, 2008 decision by the Board of Appeals and Interferences; the amendment is within two months from the date of the Board decision. On September 29, 2008, a communication was mailed to return the application to the Board. On June 8, 2009, another communication was mailed vacating the September 29, 2008 communication with no response period set. On June 25, 2009, a Notice of Abandonment was mailed for failure to timely file a proper response to the communication letter of June 08, 2009. Thus, the Notice of Abandonment mailed June 25, 2009 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 for the treatment of the amendment filed July 16, 2008.

/pl/

/Kim Huynh/

Kim Huynh, SPRE/QAS
Technology Center 2400
Network, Multiplexing, Cable and Security
571-272-4147

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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JUL 19 2002

OFFICE OF PETITIONS

In re Application of	:
Walker et al.	: DECISION GRANTING
Application No. 09/855,300	: PETITION UNDER
Filed: May 15, 2001	: 37 CFR 1.47
Attorney Docket No. 00-030	:
For: SYSTEM FOR PROVIDING OFFERS USING A BILLING STATEMENT	:

This is in response to the petition under 37 CFR 1.47(a) filed December 10, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

Andrew Golden
444 Bedford Street, Apt. 2A
Stamford, CT 06901

In re Application of :
Walker et al. :
Application No. 09/855,300 : LETTER
Filed: May 15, 2001 :
Attorney Docket No. 00-030 :
For: System for Providing Offers Using a Billing Statement :

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JUL 19 2002

OFFICE OF PETITIONS

Dear Mr. Golden:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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

John Packes, Jr.
21 Frankford Street
Hawthorne, NY 10532-1950

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JUL 19 2002

OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 09/855,300 : LETTER
Filed: May 15, 2001 :
Attorney Docket No. 00-030 :
For: System for Providing Offers Using a Billing Statement :

Dear Mr. Packes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 12

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Rupich et al. :
Application No. 09/855,312 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 05770-156001/AMSC-554 :

This is a decision on the petition under 37 CFR 1.182, filed July 7, 2003, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Thomas A. Kodenkandath

2. Martin W. Rupich

This application is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET, FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of :
SUNTOLA, et al. :
Application No. 09/855,321 : DECISION GRANTING PETITION
Filed: May 14, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ASMMC.013C2** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Andrew N. Merickel 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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WASHINGTON, D.C. 20231
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Paper No. 6

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO, CA 94303

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Vijayakumar, et al.	:	
Application No. 09/855,322	:	DECISION GRANTING
Filed: May 14, 2001	:	STATUS UNDER 37 CFR
Attorney Docket No.: PA1742US	:	1.47(a) and GRANTING
For: MATCHED TEXTURE FILTER DESIGN	:	PETITION UNDER 37 CFR
FOR RENDERING MULTI-RATE DATA	:	1.137(b)
SAMPLES	:	

This is a decision on the petition under 37 CFR 1.47(a) and the petition under 37 CFR 1.137(b), to revive the above-identified application, filed April 22, 2002.

PETITION UNDER 37 CFR 1.47(a)

Petitioner has shown that inventor Konstantine Iourcha has refused to join in the filing of the above-identified application after having been presented with the application papers. Accordingly, the petition under 37 CFR 1.47(a) is hereby **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.

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 requried petition fee of $130.00 has been charged to deposit account No. 06-0600 as authorized in the instant petition.

PETITION UNDER 37 CFR 1.137(b)

The application became abandoned September 13, 2001 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application Papers ("Notice"), mailed July 12, 2001. The Notice set a two (2) month shortened statutory period of time for response. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR

1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition has been examined and found in compliance with the requirements for a grantable petition under 37 CFR 1.137(b). Accordingly, the petition to revive is hereby **GRANTED**.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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KONSTANTINE IOURCHA
310 ELAN VILLAGE LANE #204
SAN JOSE, CA 95134

In re Application of :
Vijayakumar, et al. :
Application No. 09/855,322 : LETTER
Filed: May 14, 2001 :
Attorney Docket No. PA1742US :
For: MATCHED TEXTURE FILTER DESIGN :
FOR RENDERING MULTI-RATE DATA :
SAMPLES

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AUG 0 5 2002

OFFICE OF PETITIONS

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO, CA 94303

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Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT
(K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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APR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Hosted et al.	:	DECISION ON APPLICATION
Application No. 09/855,340	:	FOR
Filed: May 15, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. IN01164K	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705," filed March 7, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred thirty-five (135) days to four hundred thirty-eight (438) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **four hundred thirty-eight (438)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 19, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 135 days. On March 7, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 130 days

[1] PALM records indicate that the Issue Payment was also filed on March 7, 2007.

associated with the filing on May 10, 2004 of a response to the restriction requirement mailed October 1, 2003. Applicants state that a reply was filed on November 3, 2003, and that the response was resubmitted on May 10, 2004 at the request of the examiner because he had not received the original response. Applicants point out that the USPTO PAIR system includes images of the response filed on November 3, 2003. In addition, applicants submit a copy of their return postcard receipt evidencing filing of the response on November 3, 2003. As the response was filed within the three-month period, the reduction for this delay pursuant to § 1.704(b) should be 0 days, not 130 days. Further, applicants assert that, given that the response was actually filed on November 3, 2003, a period of adjustment of 173 days (pursuant to §§ 1.702(a)(2) and 1.703(a)(2)) should be entered for the Office taking until August 23, 2004 to respond.

Applicants state that the application is not subject to a terminal disclaimer.

Applicants are correct. The application history shows that the reply is properly considered filed on November 3, 2003. Furthermore, applicants' characterization of the basis for and amounts of the corrections to the adjustments and reductions of patent term in this application given the filing of the reply on November 3, 2003 is correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 438 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 4/11/2007
Time: 16:19:30

PTA Calculations for Application: 09/855340			
Application Filing Date:	05/15/2001	PTO Delay (PTO):	443
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	308
Post-Issue Petitions:	0	Total PTA (days):	438
PTO Delay Adjustment:	303		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	04/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	130		
80	04/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	173		
71	01/19/2007	MAIL NOTICE OF ALLOWANCE			
70	01/18/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	01/08/2007	NOTICE OF ALLOWABILITY			
68	10/04/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	04/22/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	04/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/04/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	12/24/2006	DATE FORWARDED TO EXAMINER			
63	12/01/2006	RESPONSE AFTER EX PARTE QUAYLE ACTION			
62	12/07/2006	ERROR(S) IN CRF CORRECTED BY STIC			
61	10/03/2006	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
60	10/02/2006	EX PARTE QUAYLE ACTION			
59	07/18/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
58	07/26/2006	DATE FORWARDED TO EXAMINER			
57	07/18/2006	RESPONSE AFTER NON-FINAL ACTION		12	53
56	07/18/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	07/06/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	06/28/2006	EXAMINER INTERVIEW SUMMARY RECORD			

		(PTOL - 413)			
53	04/06/2006	MAIL NON-FINAL REJECTION			
52	04/03/2006	NON-FINAL REJECTION			
51	03/07/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	03/10/2006	DATE FORWARDED TO EXAMINER			
49	03/07/2006	AMENDMENT AFTER FINAL REJECTION		20	46
48	03/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
46	11/15/2005	MAIL FINAL REJECTION (PTOL - 326)			
45	11/14/2005	FINAL REJECTION			
44	10/12/2005	DATE FORWARDED TO EXAMINER			
43	09/29/2005	RESPONSE AFTER NON-FINAL ACTION		54	38
42	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/25/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	08/15/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	07/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
38	05/06/2005	MAIL NON-FINAL REJECTION			
37	05/05/2005	NON-FINAL REJECTION			
36	03/11/2005	DATE FORWARDED TO EXAMINER			
35	02/23/2005	RESPONSE AFTER NON-FINAL ACTION		30	32
34	02/11/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
33	02/10/2005	DATE FORWARDED TO EXAMINER			
32.1	01/24/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
32	01/24/2005	RESPONSE AFTER NON-FINAL ACTION		62	28
31	01/24/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	02/10/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
29	01/24/2005	WORKFLOW INCOMING AMENDMENT IFW			
28	08/23/2004	MAIL NON-FINAL REJECTION			
27	08/19/2004	NON-FINAL REJECTION			
26	06/08/2004	DATE FORWARDED TO EXAMINER			

25	05/10/2004	RESPONSE TO ELECTION / RESTRICTION FILED		130	23
24	05/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	10/01/2003	MAIL RESTRICTION REQUIREMENT	443		-1
22	09/29/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
21	06/19/2003	APPLICATION RETURN FROM OIPE			
20	08/22/2002	APPLICATION DISPATCHED FROM OIPE			
19	08/21/2002	APPLICATION IS NOW COMPLETE			
18	07/22/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
17	08/12/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
16	06/18/2002	SEQUENCE ERRORS			
15	06/18/2002	PRE-EXAM OFFICE ACTION WITHDRAWN			
14	06/13/2002	APPLICATION RETURN TO OIPE			
13	05/21/2002	X-PRE-LEGAL COMPLETE NEW CASE			
12	01/16/2002	APPLICATION DISPATCHED FROM OIPE			
11	01/16/2002	APPLICATION IS NOW COMPLETE			
10	01/07/2002	APPLICATION MADE UNAVAILABLE FOR EXAMINATION			
9	12/18/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	11/01/2001	APPLICATION DISPATCHED FROM OIPE			
7	11/01/2001	APPLICATION IS NOW COMPLETE			
6	07/19/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	07/18/2001	CORRESPONDENCE ADDRESS CHANGE			
4	06/21/2001	ERROR(S) IN CRF CORRECTED BY STIC			
3	05/24/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/15/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/15/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OCT 15 2007

OFFICE OF PETITIONS

In re Patent No. 7,220,567	:	LETTER REGARDING
Hosted et al.	:	PATENT TERM ADJUSTMENT
Issue Date: May 22, 2007	:	and
Application No. 09/855,340	:	NOTICE OF INTENT TO ISSUE
Filed: May 15, 2001	:	CERTIFICATE OF CORRECTION
Atty Docket No. IN01164K	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(d) filed June 25, 2007.

The request for review of the patent term adjustment 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 nine hundred twenty-four **(924)** days.

On May 22, 2007, the application matured into U.S. Patent No. 7,220,567, with a revised patent term adjustment of 1097 days. Patentees disclose that the patent term adjustment indicated on the patent should be 924 days. Patentees disclose that the patent is entitled to 1102 days of actual delay as provided for under 37 C.F.R. §§ 1.703(f), 702(b) and 703(b) reduced by 178 days for applicant delay.

Patentees are correct. By decision mailed April 16, 2007, the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed March 7, 2007 was granted. The correction of the initial PTA was made by way of entry of an additional period

of adjustment of 173 days and removal of a period of reduction of 130 days.

The patent issued 3 years and 1102 days after the actual filing date of the application. A review of the record reveals that at the time of issuance of the patent an additional period of adjustment of 659 days was entered pursuant to § 1.703(b). This period was entered without consideration of the fact that the period under § 1.703(b) overlaps with the period of adjustment of 173 days pursuant to § 1.703(a) entered on decision on application for patent term adjustment mailed April 16, 2007. (It considered only the overlapping period of 443 days). As such, as recognized by patentees, the patent term adjustment is incorrect and should be decreased by 173 days to 924 days (which is equal to 1102 days reduced by 178 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office. The fee submitted is being refunded to petitioner's Deposit Account, as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred twenty-four **(924)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,220,567 B2

DATED : May 22, 2007

INVENTOR(S) : Hosted, Jr. et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1097) days

Delete the phrase "by 1097" and insert – by 924 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6 #6

RICHARD E. STANLEY, JR
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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FEB 13 2002

OFFICE OF PETITIONS

In re Application of :
VanDeRiet et al. :
Application No. 09/855,369 : DECISION ON PETITION
Filed: May 15, 2001 :
Attorney Docket Number: :
3591-1092 :

This is a decision on the Petition under 37 CFR 1.78(a)(6), filed on December 26, 2001 (Certificate of Mailing dated October 25, 2001),to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of one or more prior filed provisional applications, numbers 60/206,204, 60/206,205, and 60/206,457, all filed on May 22, 2000, and provisional application number 60/206,255, filed on May 23, 2000.

This Petition is hereby **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 the expiration of the period specified in 37 CFR 1.78(a)(5), and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed provisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title. *See* 35 USC 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on May 15, 2001, within 12 months of the filing date of provisional applications, numbers 60/206,204, 60/206,205, and 60/206,457, all filed on May 22, 2000, and provisional application number 60/206,255, filed on May 23,

2000, and for all of which priority is claimed. A reference to the prior filed provisional applications has been included in an Amendment adding the reference to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 USC 119(e).

Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6), for acceptance of an unintentionally delayed claim for priority under 35 USC 119(e), the petition to accept an unintentionally delayed claim of benefit of prior filed provisional applications, numbers 60/206,204, 60/206,205, 60/206,255, and 60/206,457 is granted as of the date of the filing of the petition.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing and for mailing of a corrected filing receipt with a projected publication date. Afterwards, the application will be forwarded to Technology Center 3600 for processing of the Amendment filed December 26, 2001, and for consideration of the claims under 35 USC 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior filed provisional applications, numbers 60/206,204, 60/206,205, and 60/206,457, all filed on May 22, 2000, and provisional application number 60/206,255, filed on May 23, 2000.

Telephone inquiries concerning this matter should be directed to petitions attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances Hicks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2006

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/855386 Patent No.: 6,971,093

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: _____

_____

_____

_____

_____

_____ **SPE**

2191 **Art Unit**

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Stout, Uxa, Buyan & Mullins LLP
4 Venture, Suite 300
Irvine, CA 92618

Paper No. 9

In re Application of	: DECISION ON PETITION
Robert Johnson et al	:
Serial No. : 09/855,403	:
Filed : May 15, 2001	:
For : Aerosol Enhancement Device	:

This is a decision on a petition filed September 22, 2003 (certificate of facsimile transmission dated September 19, 2003) by which petitioner requests the establishment of a new shortened statutory period for filing a reply to the Office letter dated May 16, 2003. Petitioner alleges that he did not receive the Office letter in question. Petitioner became aware of the mailing of the May 16, 2003 letter during a review of the petitioner's docket. A call was placed to the examiner who confirmed the mailing of the letter in question and forwarded to petitioner a copy of the letter. The petition is being considered under 37 CFR 1.181, and no fee is required.

Petitioner has used the guidelines set forth in section 711.03(c) of the MPEP to establish non-receipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing is acceptable under the circumstance in the instant application in which applicant is informed of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned. In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed September 22, includes all the above elements. The request is therefore GRANTED. Further, since the request includes a response to the Office letter of May 16, 2003, that letter will not be remailed and the response is deemed to have been timely filed. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response.

Summary: Petition to hold response timely based on failure to receive Office action GRANTED.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/02/26/04

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS DAWES ANDRAS & SHERMAN LLP
19900 MACARTHUR BLVD
SUITE 1150
IRVINE CA 92612

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of
Axel Scherer : DECISION ON PETITION
Application No. 09/855,404 :
Filed: May 15, 2001 :
Attorney Docket No. Q050 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 30, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 3, 2003. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on December 4, 2003. A Notice of Abandonment was mailed on January 12, 2004.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue and publication fees.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this decision may 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Paul F. McQuade
Greenberg Traurig
1750 Tysons Boulevard, 12th Floor
McLean, Virginia

MAILED

DEC 11 2002

Technology Center 2100

In re Application of Krueger et al.	:
Application No. 09/855,425	: DECISION DISMISSING PETITION
Filed: October 1, 2001	: TO MAKE SPECIAL UNDER
Attorney Docket No. 27813.010300	: 37 C.F.R. §1.102(d) AND MPEP
Title: METHOD AND SYSTEM FOR SEAMLESS	: § 708.02(XI)
INTEGRATION OF PREPROCESSING AND	:
POSTPROCESSING FUNCTIONS WITH AN	:
EXISTING APPLICATION PROGRAM	:

This is a decision on the petition to make special filed November 15, 2002 under 37 C.F.R. § 102(d) and MPEP § 708.02 (XI): Inventions for Countering Terrorism. The petition title includes the statement that the paper is also intended "to amend attorney docket number"; however, the petition contains no further information regarding the request. Petitioners are advised to handle that matter in a separate letter stating clearly what changes in the docket number are requested. The matter will not be further treated in this decision.

The petition is **DISMISSED.**

MPEP § 708.02(XI), which sets out the prerequisites for a grantable petition for Inventions for Countering Terrorism" under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. 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.

Petitioners' submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The disclosed invention is generally directed to a system for encrypting files

transparent to the user. The files are related to Microsoft Office applications and the key to the encryption resides solely on the user's machine. Note there is no mention of terrorist activity in the disclosure. Encryption of a user's files does not directly prevent "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". While petitioners have provided a statement explaining how the invention contributes to countering terrorism "by allowing federal, state and other authorities to leverage commercial off-the-shelf ('COTS') software while protecting information generated and used by that software"; the apparent protection of the data is against "hackers and others". Protecting against hacking, while important, does not rise to the level of acts intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping. In addition, such encryption as proposed by applicants may actually hinder law enforcement attempts to read files created by terrorists. Thus the invention could be an aid to terrorism or criminal activity.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision. It is suggested that applicants review MPEP § 708.02 regarding other grounds available for filing a petition to make special. In particular, note MPEP § 708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

The petitioners have stated a check to cover the cost of the filing of the petition was enclosed, but the Office's records do not show any such deposit. Therefore, Deposit Account No. 50-0653 has been charged the required fee of $130.00.

The application is being forwarded to Technology Center 2100's Central Files to await examination in its proper turn based on its effective filing date. Telephone inquiries regarding this decision should be directed to the undersigned at 703-308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

Richard I. Samuel
Goodwin Procter LLP
7 Becker Farm Road
Roseland, NJ 07068

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Uwe Trinks, et al. :
Application No. 09/855,434 : ON PETITION
Filed: May 15, 2001 :
Attorney Docket No. 103057-157-NP :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 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 July 12, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

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Commissioner for Patents
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Joseph E. Geusic et al	:	
Application No. 09/855,532	:	DECISION GRANTING PETITION
Filed: May 16, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M4065.0439/P439	:	

This is a decision on the petition, filed March 8, 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 November 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Penrose Lucas Albright, Esq.
MASON, MASON & ALBRIGHT
P.O. BOX 2246
Arlington VA 22202-0246

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SEP 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Berg et al. :
Application No.: 09/855,535 :
Filing Date: May 16, 2001 :
Docket No.: 8553/215 :
For: An Implement For Automatically Detaching And Displaying An Amount Of Feed, Such As, For Example, Silage Or Hay :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 22, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed June 27, 2003, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on December 27, 2003. A Notice of Abandonment was mailed on April 21, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement that "the entire delay from the due date for filing the required Request for Continued Examination (November 27, 2003) or taking other appropriate action, until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional." This is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3). 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 3643 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

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PENROSE LUCAS ALBRIGHT, ESQ.
MASON, MASON & ALBRIGHT
P.O. BOX 2246
ARLINGTON, VA 22202-0246

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Berg et al.	:	
Application No. 09/855,535	:	DECISION ON PETITION
Filed: May 16, 2001	:	
Attorney Docket No. 04132.0099.00US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 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 an Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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 $2230.00 extension of time fee submitted with the petition on February 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3643 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: HOWREY LLP
2941 FAIRVIEW PARK DRIVE
BOX 7
FALLS CHURCH, VA 22042

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SEP 14 2009

OFFICE OF PETITIONS

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of :
Van Den Berg et al. :
Application No. 09/855,535 : DECISION ON PETITION
Filed: May 16, 2001 : PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.28(c)
04132.0099.00US00 :
Title: IMPLEMENT FOR :
AUTOMATICALLY DETACHING AND :
DISPLACING AN AMOUNT OF FEED, :
SUCH AS, FOR EXAMPLE, SILAGE OR :
HAY :

This is a notice regarding your submission of October 22, 2008, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R § 1.28(c). On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the

> sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission under 37 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This patent is now listed as a large entity.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Karel van den Berg	: DECISION ON REQUEST FOR
Patent Number	: 7614364	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/855,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 7

Lynn S. Cassan
Suite 401
80 Aberdeen Street
Ottawa, ON K1S 5R5

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AUG 16 2002

OFFICE OF PETITIONS

In re Application of :
Wayne Y. Lee :
Application No. 09/855,596 : ON PETITION
Filed: May 16, 2001 :
Attorney Docket No. 42041-0005 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Corrected Application Papers mailed July 17, 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 18, 2001.

The application is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of:
Brigette Gicquel, Dennis
Portnoi, Eng-Mong Lim,
Vladimir, Agnes Guigueno and
Yves Goget De La Salmoniere
Application No. 09/855,604
Filed: May 16, 2001
Title of Invention:
POLYPEPTIDE NUCLEIC SEQUENCES
EXPORTED FROM MYCOBACTERIA,
VECTORS COMPRISING SAME AND
USES FOR DIAGNOSING AND
PREVENTING TUBERCULOSIS

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OFFICE OF PETITIONS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed May 2, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

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, Yves Goget De La Salmoniere, refuses to sign the declaration in the above-identified application.

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.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Yves Goget De La Salmoniere
30 rue de Lourmel
75015 Paris
France

In re Application of:
Brigette Gicquel, Dennis Portnoi, Eng-Mong Lim, Vladimir, Agnes Guigueno and Yves Goget De La Salmoniere
Application No. 09/855,604
Filed: May 16, 2001
Title of Invention: POLYPEPTIDE NUCLEIC SEQUENCES EXPORTED FROM MYCOBACTERIA, VECTORS COMPRISING SAME AND USES FOR DIAGNOSING AND PREVENTING TUBERCULOSIS

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OFFICE OF PETITIONS

LETTER

Dear Mr. Goget De La Salmoniere:

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).

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
901 NEW YORK AVE NW
WASHINGTON DC 20001-4413

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APR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Gicquel, et al.	:	
Application No. 09/855,604	:	DECISION ON PETITION
Filed: May 16, 2001	:	
Attorney Docket No. 3715.0062-01	:	

This is a decision on the petition under 37 CFR 1.55(c), filed December 3, 2004, to accept an unintentionally delayed claim under U.S.C. §§ 119(a) - (d) for the benefit of French Application Nos. FR 97/10,404, filed August 14, 1997, and FR 97/11,325, filed September 11, 1997. The petition is also being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under § 120 for the benefit of prior filed nonprovisional application no. 09/485,536.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on May 16, 2001, and was pending at the time of filing of the instant petition. Reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). The reference to nonprovisional application no. 09/485,536 submitted on filing was not included in an ADS or the specification, but was improperly included in the application transmittal letter.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) 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.

Application No. 09/485,536, to which the instant application claims priority, is the national stage application of PCT/FR98/01813, filed August 14, 1998. French applications FR 97/10,404 and FR 97/11,325 were filed within one year of this date.

The granting of the petition to accept the delayed ***benefit claim*** *to the prior-filed application(s) under 37 CFR 1.55(c) and 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider the benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.*

This application is being forwarded to Group Art Unit 1636 for consideration of the amendment filed January 3, 2005.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Frances Hicks

Francis Hicks
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

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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JUL 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Richard B. Olsen, Michel M. Dacorogna, Oliver V. :
Pictet, Ulrich A. Muller, Rakhal D. Dave, and Lars A. :
Jaegar :
Application No. 09/855,633 : DECISION ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 10366-009 :
Title: METHODS FOR TRADE DECISION MAKING :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed February 13, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

On May 14, 2001, the application was deposited, identifying Richard B. Olsen, Michel M. Dacorogna, Oliver V. Pictet, Ulrich A. Muller, Rakhal D. Dave, and Lars A. Jaegar as joint inventors. The application was deposited without a fully executed oath or declaration. On July 12, 2001, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $65.00 were required. This Notice set a two-month period for reply.

With the instant petition, the petitioner has included the filing fee for the petition, the $65.00 surcharge, a four month extension of time to make timely this reply[2], a declaration executed by each inventor save Inventor Pictet, a copy of an e-mail sent by the non-signing inventor, and a copy of the letter sent to the petitioner from the non-signing inventor's attorney.

---

[1] A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 A five month extension of time was required. The difference has been charged to petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1), (2), (3), and (6) of 37 C.F.R. §1.47(a) above.

Regarding the fourth requirement, petitioner has not shown that a *complete* copy of the application was sent to the non-signing inventor. Petitioner refers to attorney Ulmann's allegation that certain references were not mentioned in the application to show that a copy of the entire application was received by attorney Ulmann. This is insufficient to show, as required, that Rule 47 applicant presented the inventor with a copy of the entire application.

Regarding the sixth requirement above, it follows that one cannot refuse to sign something which one has not been presented with. 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. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, DC 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries 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

3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

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

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Richard B. Olsen, Michel M. Dacorogna, :
Oliver V. Pictet, Ulrich A. Muller, Rakhal D. :
Dave, and Lars A. Jaegar :
Application No. 09/855,633 :
Filed: May 14, 2001 :
Attorney Docket No. 10366-009 :
Title: METHODS FOR TRADE DECISION :
MAKING

DECISION GRANTING STATUS
ON RENEWED PETITION
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed July 23, 2002[2].

The renewed petition is **GRANTED**.

On May 14, 2001, the application was deposited, identifying Richard B. Olsen, Michel M. Dacorogna, Oliver V. Pictet, Ulrich A. Muller, Rakhal D. Dave, and Lars A. Jaegar as joint inventors. The application was deposited without a fully executed oath or declaration. On July 12, 2001, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $65.00 were required. 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.

2 The original petition was filed on February 13, 2002. It was dismissed in a decision mailed on August 9, 2002.

With the original petition, the petitioner failed to satisfy requirements (4) and (5) above, in that petitioner failed to show that a complete copy of the application was sent to the non-signing inventor.

The procedures set forth meet the requirements of this petition, in that the document submitted establishes that a complete copy of the application was sent to the non-signing inventor, and he has failed to respond.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Nancy Johnson for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

United States Patent and Trademark Office

Oliver V. Pictet
c/o Thierry Ulmann, Esq.
Ulman & Couyoumdjelis
Attorneys at Law
14, rue du Conseil-General
1205 Geneva
SWITZERLAND

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Richard B. Olsen, Michel M. Dacorogna, :
Oliver V. Pictet, Ulrich A. Muller, Rakhal D. :
Dave, and Lars A. Jaegar : DECISION GRANTING STATUS
Application No. 09/855,633 : ON RENEWED PETITION
Filed: May 14, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 10366-009 :
Title: METHODS FOR TRADE DECISION :
MAKING

Dear Mr. Pictet:

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).

Nancy Johnson for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

cc: Oliver V. Pictet
c/o Pictet & Cie, Banquiers
29, boulevard Georges-Favon
CH-1204 GENEVE
SWITZERLAND

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

BROBECK, PHLEGER & HARRISON, LLP
ATTN: INTELLECTUAL PROPERTY DEPT.
1333 H STREET, N.W. SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Ning Li, et al
Application No. 09/855,682
Filed: May 16, 2001
Attorney Docket No. 031855.0007

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed October 7, 2002, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). 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

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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 16, 2001, and was pending at the time of filing of the instant petition. Further, the instant nonprovisional application was copending with the prior-filed nonprovisional application, for which a claim for benefit of priority is now being sought. A reference to the prior-filed 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)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted as of the date of filing the petition.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1634 for processing the amendment filed October 7, 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 priority to the prior-filed application, Application No. 09/329,796 (now Patent No. 6,291,174), filed June 10, 1999.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 07 2004

OFFICE OF PETITIONS

PILLSBURY WINTHROP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of
Nabil Hanna et al
Application No. 09/855,717
Filed: May 16, 2001
Attorney Docket No. P 0280623 1999-30-0466CP2

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed March 2, 2004, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on May 16, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on May 16, 2001. Intermediate Application No. 09/772,938, was filed within twelve months of provisional Application No. 60/217,706, which was filed on July 12, 2000, for which priority is claimed. A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § 120(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed aplications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications accompanies this decision on petition.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1644 will consider the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUN 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :
KOBB, MICHAEL J. :
Application No. 09/855,813 : DECISION ON REQUEST TO
Filed: May 14, 2001 : WITHDRAW AS ATTORNEY
For: METHOD AND SYSTEM FOR :
EXTENDING RECORDING :

This is a decision on the request to withdraw as attorney/agent of record filed on May 9, 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. 758 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.

for Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: BRADLEY J. HULBERT
MCDONNELL, BOEHNEN, HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6709

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed: June 5, 2008
Patent No. 7,356,246 B2
Ser. No. :09/855813
Inventor(s) :Michael J. Kobb.
Issued :April 8, 2008
Title: METHOD AND SYSTEM FOR EXTENDING RECORDING

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

McDonnell Boehnen
Hulberty & Berghoff LLP
300 South Wacker Dr.
Chicago, Il 60606
0
MD/mt

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed: June 5, 2008
Patent No. 7,356,246 B2
Ser. No. :09/855813
Inventor(s) :Michael J. Knobb
Title: METHOD AND SYSTEM FOR EXTENDING RECORDING

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

McDonnell Boehnen
Hulbert & Berghoff LLP
300 South Wacker Dr.
Chicago, IL 60606

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Chen Lew	:	
Application No. 09/855,814	:	
Filed: May 14, 2001	:	
Atty Docket No.:	:	
LEW1042	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed November 23, 2004. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed January 8, 2003. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 9, 2003. A Notice of Abandonment was mailed May 14, 2003.

With the instant petition Applicant has submitted the issue fee.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 11, 2006

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/855,814 Patent No.: 7063855 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**.

Antonia Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 3677

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

Townsend and Townsend and Crew
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Christoper D. Creech et al. :
Application No. 09/855,828 : ON PETITION
Filed: May 14, 2001 :
Attorney Docket No. 18512-06010US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 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 Application (Notice) mailed July 13, 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 13, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1005 extension of time submitted with the petition on December 22, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

MAIL

FEB 27 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN, PR 00918

In re Application of	:	
Hector Hoyos, et al.	:	
Application No. 09/855,830	:	DECISION ON REQUEST TO
Filed: May 15, 2001	:	WITHDRAW AS ATTORNEY
For: COUPON RECOGNITION SYSTEM	:	
	:	

This is a decision on the request to withdraw as attorney/agent of record filed on December 16, 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 the 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 M. Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Mr. Hector Hoyos
Biometrics Imagineering, Inc.
252 Ponce De Leon Avenue
Citibank Tower, 16th Floor
San Juan, PR 00918

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)
6765948	2004-07-20	09855853	2001-05-15	PAT013US

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	/N. Stephan Kinsella/	Date (YYYY-MM-DD)	2008-08-11
Name	N. Stephan Kinsella	Registration Number	37657

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. 6765948
Issue Date: July 20,2004
Application No. 09855853
Filed: May 15,2001
Attorney Docket No. PAT013

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

SEP 2 6 2002

OFFICE OF PETITIONS

In re Application of
Jeffrey S. Brooks
Application No. 09/855,890
Filed: May 15, 2001
Attorney Docket No. BSS 6422

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed September 12, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed July 16, 2001, which set forth a two (2) month period for reply. No extensions of time under 37 CFR § 1.136(a) were obtained. Accordingly, this application became abandoned on September 17, 2001. A Notice of Abandonment was mailed on August 26, 2002.

Petitioner responded appropriately to the Notice by remitting on September 12, 2002, the filing fee of $740.00 and the surcharge of $130.00.

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned, at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P.O. Box 655474, M/S 3999
Dallas, TX 75265

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of
BON *et al*
Application No.: 09/855,893
Filing Date: May 15, 2001
Docket No.: TI-30321
For: SYSTEM AND METHOD TO CUSTOMIZE BOND PROGRAMS COMPENSATING INTEGRATED CIRCUIT BONDER VARIABILITY

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 submit the issue fee and publication fee in a timely manner in reply to a Notice of Allowance and Fee(s) Due mailed September 26, 2005. The Office Action set a non-extendable three (3) month period for reply.

Petitioners have met the requirements for revival under 37 CFR 1.137(b). Petitioners submitted the required issue and publication fee, paid the $1,500.00 petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to Art Unit 2154 for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

#10

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Robert A. McCann, Esq.
Panduit Corp.
Legal Department--TP12
17301 S. Ridgeland Avenue
Tinley Park, IL 60477

MAILED

APR 1 2003

Office of the Director
Group 3600

In re Application of
James A. Brownlee et al.
Application No. 09/855,917
Filed: May 15, 2001
For: CABLE TIE WITH WIDE NECK

DECISION ON PETITION
TO ACCEPT A
LATE COMMUNICATION

This is in response to applicant's communication filed in the United States Patent and Trademark Office (USPTO), on March 27, 2003. This communication is being treated as a petition to accept a late communication under 37 CFR 1.181.

The petition is **GRANTED**.

A review of the file record indicates that a final rejection setting a three month shortened statutory period was mailed to the applicant on October 22, 2002.

The applicant has submitted, on March 27, 2003, a copy of an Amendment after Final Action, which includes a signed Certificate of Transmission having a transmission date of January 21, 2003. A statement attesting to the timely transmission of the response by Tina M. Langdon is also included. This is acceptable evidence to accord the Amendment after Final Action the date of January 21, 2003.

The application is being forwarded to the Supervisory Legal Instruments Examiner for treatment of the Amendment after Final Action filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Randolph A. Reese

Randolph A. Reese, Special Programs Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-2121
Facsimile No.: (703) 605-0586

RAR/tpl: 4/1/03

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)
6866936	2005-03-15	09855923	2001-05-15	0112280.00121US3

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	/Mary Rose Scozzafava/	Date (YYYY-MM-DD)	2009-05-11
Name	Mary Rose Scozzafava	Registration Number	36268

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. 6866936
Issue Date: March 15,2005
Application No. 09855923
Filed: May 15,2001
Attorney Docket No. 112280-121US CN

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2009 ,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 May 11,2009 . 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.

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)
6428391	2002-08-06	09/855,952	2001-05-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◯ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/MIKE BUZZETTI/	Date (YYYY-MM-DD)	2008-02-22
Name	MIKE BUZZETTI		

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. 6428391
Issue Date: August 6,2002
Application No. 09855952
Filed: May 14,2001
Attorney Docket No. 105011

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 22,2008 ,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 February 22,2008 . 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

Scott A. Horstemeyer
Thomas, Kayden, Horstemeyer & Risley, L.L.P.
Suite 1500
100 Galleria Parkway N.W.
Atlanta GA 30339

AUG 0 9 2004

In re Application of :
Martin :
Application No. 09/855,972 : DECISION ON PETITION
Filed: May 15, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 62002-1751 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed Bzebruary 25, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 15, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-1820..

This application is being forwarded to Technology Center Art Unit 1603 for appropriate action on the amendment filed February 25, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Brian Hearn
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

30 JUN 2003

Merchant & Gould
P O Box 2903
Minneapolis, MN 55402-0903

In re Application of :
FUCHS et al. : DECISION ON
Application No.: 09/856,003 :
Filing Date: 15 May 2001 : PETITION
Attorney's Docket No.: 9320.0129USWO :
For: THERMAL PRINTER :

This is in response to applicant's "Petition to Treat May 21, 2001 Application Filing as a Filing under 35 U.S.C. 111(a)" filed in the United States Patent and Trademark Office (USPTO) on 16 January 2003, via facsimile, and refiled on 24 April 2003, requesting the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a).

BACKGROUND

On 15 May 2001, applicant filed a transmittal letter (Form PCT/1390) requesting entry into the national stage under 35 U.S.C. 371 and referenced PCT/FR00/06174. The filing included 9 pages of specification, 7 claims, 5 pages of drawings and abstract. The unsigned declaration also referenced PCT/FR00/06174. These papers were assigned application no. 09/856,003.

On 16 January 2003, applicant originally filed the instant petition requesting that the application papers submitted 15 May 2001 be treated as a filing under 35 U.S.C. 111. Petitioner requests, in effect, that the application papers, requesting national stage entry under 35 U.S.C. 371, be considered an application filed under 35 U.S.C. 111(a) and be accorded a filing date of 21 May 2001.

DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of

the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

On 15 May 2001, applicant filed a request for entry into the national stage in the USPTO along with the basic national filing fee of $860, identified the application as a filing under 35 U.S.C. 371 and referenced PCT/FR00/06174 in the transmittal letter. However, communication with the International Bureau confirms that PCT/FR00/06174 does not exist as an PCT international application. Thus, the papers filed on 15 May 2001 which included a set of application papers (specification, claims & drawings) and filing fees for an application can not be treated as a filing under 35 U.S.C. 371 and must be considered a filing under 35 U.S.C. 111(a).

The specification, claims and drawings filed on 15 May 2001 are considered as a new filing under 35 U.S.C. 111(a), and assigned application no. 09/856,003. The preliminary amendment submitted on 15 May 2001 will be retained in application file 09/856,003 and acted upon for purposes of examination. Applicant's petition to convert the application from a filing under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a), is granted.

The basic national U.S. filing fee of $860 will be refunded to applicant's deposit account and applicant will be charged the filing fee of $710 for basic filing fee for a U.S. utility application.

CONCLUSION

For the reasons above, the petition to treat the present application as a filing under 35 U.S.C. 111(a) is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination for processing the present application as a filing under 35 U.S.C. 111(a) and having a filing date of 15 May 2001.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-06

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6730696

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:

The species of claim 8 and 16 are commensurate within the scope of claim 1, wherein the variable D represent indomethacin.

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

R.S. 8/11/06

SPE 8/11/06

1626
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-06

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6730696

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**
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With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

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:

The species of claim 8 and 16 are commensurate within the scope of claim 1, wherein the variable D represents indomethacin.

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

RS. 8/11/06

SPE 8/11/06

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

BROWDY AND NEIMARK
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of :
Hidetoshi Uemura et al :
Application No. 09/856,050 : ON PETITION
Filed: May 17, 2001 :
Attorney Docket No. UEMURA 8 :

This is a decision on the petition, filed August 4, 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 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 1652 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

United States Patent and Trademark Office

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OFFICE OF PETITIONS

Paul P. Kiel
THOMSON MULTIMEDIA LICENSING INC.
Post Office Box 5312
Princeton, New Jersey 08543-0028

In re Application of
Helmut BURKLIN, et al.
Application No. 09/856,063
Filed 12 July 2001
Attorney Docket No.: PF 980079

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b) filed 05 July 2005 and ensuing communication filed by facsimile on 05 August 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed 18 January 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 19 April 2005.

As authorized in communication of 05 August 2005, the $1,500.00 petition fee under 37 CFR 1.137(b) and 1.17(m) has been charged to Deposit Account No. 07-0832.

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 non-provisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (**1**) above.

As to item (1), the amendment submitted on 05 July 2005 does not *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an amendment that *prima facie* places the application in condition for allowance, a Notice

of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon
Petitions Examiner
Office of Petitions

NNH/WL:hn

Attachment: Courtesy copy of the Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul P. Kiel
THOMSON MULTIMEDIA LICENSING INC.
Post Office Box 5312
Princeton, New Jersey 08543-0028

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Helmut BUERKLIN, et al.	:	DECISION ON
Application No. 09/856,063	:	RENEWED PETITION
Filed 12 July 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: PF 980079	:	

This is a decision on the Renewed Petition Under 37 CFR 1.137(b), filed 16 December 2005, to revive the above-identified application. The Renewed Petition is **GRANTED**, as follows:

A previous Office decision of 21 November 2005 dismissed applicant's Petition for Revival under 37 CFR 1.137(b) filed 05 July 2005 for failure to submit a Request for Continued Examination along with an amendment that will *prima facie* place the application in condition for allowance.

The present renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that a Request for Continued Examination and the requisite fee have been submitted. Since applicant did not file a new submission, the Response under 37 CFR 1.111 filed previously on 05 July 2005 , which includes the amendments to the claims and remarks has been construed as the requisite submission under 37 CFR 1.114. See MPEP 706.07(h). If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Frances Hicks
Petitions Examiner
Office of Petitions
NNH/WL:hn

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Robert D. Shedd
Thomson Licensing LLC
CN 5312
Princeton, NJ 08543-0028

Mail Date: 04/23/2010

Applicant	: Helmut Burklin	: DECISION ON REQUEST FOR
Patent Number	: 7590416	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/856,063	: OF WYETH
Filed	: 07/12/2001	:
		:

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.

05 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Steven J. Trzaska
Cognis Corporation
2500 Renaissance Blvd. Suite 200
Gulph Mills, PA 19406

In re Application of :
MUELLER et al. :
Application No.: 09/856,082 : DECISION
PCT No.: PCT/EP99/08532 :
Int. Filing Date: 06 November 1999 :
Priority Date: 17 November 1998 :
Attorney Docket No.: H 34574 PCT/US :
For: LUBRICANT FOR DRILLING FLUIDS :

This is a decision on applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 23 January 2002.

BACKGROUND

On 17 May 2001, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, a translation of the international application, and a preliminary amendment.

On 25 June 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was not in compliance with 37 CFR 1.63, and that a new oath or declaration in compliance with 37 CFR 1.63 along with a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 27 August 2001, applicants filed an executed declaration and power of attorney. The executed declaration was date stamped as received in the PTO on 24 August 2001.

On 01 October 2001, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 24 August 2001. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 24 August 2001.

On 23 January 2002, applicants filed the present request to correct the filing date to 27 August 2001. The request to correct the filing date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label EL541614157US.

DISCUSSION

On 23 January 2001, applicants filed the petition requesting that the filing date on the filing receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e. 27 August 2001.

A copy of the Customer Copy of the "Express Mail" label No.#EL541614157US filed with the petition bears a "Date In" 27 August 2001, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EL541614157US" was accepted by the USPS on 27 August 2001. The same "Express Mail" label number was placed on the "Transmittal of Declaration under 37 CFR 1.994/5(c)" and declaration located in the application file, but was date stamped as received in the PTO on 24 August 2001.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the executed declaration was filed on 27 August 2001. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 27 August 2001, and therefore the indication of a filing date of 24 August 2001, on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and the filing receipt are incorrect.

CONCLUSION

Applicants' request for issuance of a corrected filing receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 01 October 2001 is hereby **VACATED**.

The application has an international filing date of 06 November 1999 under 35 U.S.C. 363 and a date of **27 August 2001** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **27 August 2001**(U.S.C. 371(c)) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **27 August 2001**.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Troive et al.
Application No. 09/856,223
Filed: September 24, 2001
Attorney Docket No. 821-35

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 2, 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 November 1, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 2, 2003. A Notice of Abandonment was mailed on June 13, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy for

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HENKEL CORPORATION
THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS PA 19406

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Patent No. 7,071,254 :
Application No. 09/856,236 :
Filed: August 21, 2001 : ON PETITION
Issued: July 4, 2006 :
Attorney Docket No. H-3497 PCTUS :

This is a decision on the petition filed August 25, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-16-07

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/856,324 Patent No.: 7186418

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Ref cited / Drawings

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Erma Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

M P Woodward 1615
SPE Art Unit

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ALEXANDRIA, VA 22313-1450
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Paper No.

Brian M. Hoffman
FENWICK & WEST LLP
Sillicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED
OCT 14 2004
Technology Center 2100

In re Application of:
Eric D. Schneider
Application No. 09/856,331
Filed: July 10, 2000
For: DISK STORAGE DEFRAGMENTATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 28, 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 September 28, 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.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: SONNENSCHEIL NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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JJGJR.: 02-06

Paper No: __

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OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of
Butt, et al.
Application No. 09/856,336
Filed: 20 August, 2001
Attorney Docket No. 7174555913

ON PETITION

This is a decision on the petitions under ¶(a) of 37 C.F.R. §1.47 filed on 23 September, 2005.

The petition under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The record indicates:

- following amendment by Petitioner, the Examiner required a supplemental oath/declaration, which objection was reasserted by the Examiner on 23 June, 2005;

- on 23 September, 2005, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by named inventors Butt, for himself and on behalf of named and non-signing inventor Christopher Peter Jones (Mr. Jones); and a declaration/petition Kathryn A Piffat, Ph.D. (Reg. No. 34,901), and John Simmonds, averred to be Company Secretary of Assignee Whatman PLC, and supporting correspondence, which represents that the entire application (specification, claims, drawings) was transmitted to Mr. Jones, but that he has failed to submit a signed copy of the oath/declaration–also included are, inter alia, assignment recordation documents.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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SUGHRUE MION
2100 PENNSYLVANIA AVENUE N W
SUITE 800
WASHINGTON, DC 20037

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DEC 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,936,594 :
Issue Date: August 30, 2005 :
Application No. 09/856,374 : ON PETITION
Filed: May 21, 2001 :
Attorney Docket No. Q64360 :

This is a decision on the petition filed October 19, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3220. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Wan Laymon
Petitions Examiner
Office of Petitions

28 SEP 2004

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Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of :
BAMERT, Hans Joachim :
Application No.: 09/856,390 :
Filing Date: 22 May 2001 : DECISION
Attorney Docket No.: BAMERT-1 PCT :
For: DEVICE FOR HOLDING THE LOG TRANSMITTER OF A BOAT SPEEDOMETER :

This decision is in response to applicant's "Petition" filed in the United States Patent and Trademark Office on 04 August 2003.

BACKGROUND

On 17 October 2000, applicant filed international application PCT/EP00/10189. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 April 2001. The twenty month period for paying the basic national fee in the United States expired on 21 June 2001.

On 22 May 2001, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. The preliminary amendment amends the specification to "claim priority under 35 U.S.C. §120 of PCT/EP00/10189, filed on 17 October 2000."

On 13 July 2001, USPTO mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the translation was defective for the reasons indicated on the attached Notice of Defective Translation (Form PCT/DO/EO/913). The Notice of Defective Translation indicated that the number of claims in the International Application and the number of claims in the translations were not the same.

On 13 September 2001, applicant filed "Response to Notification of Missing Requirements Under 35 USC 371," accompanied by fifteen claims in German and a translation of those claims.

On 10 October 2001, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the current translation was defective as the number of claims in the International Application and the number of claims in the translation were not the same and that the processing fee for late furnishing of the translation and a translation of the application were required.

On 13 November 2001, applicant submitted "Response to Notification of Defective Response," accompanied by a translation.

On 05 December 2001, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the current translation was defective because it was marked up.

On 05 June 2002, applicant submitted "Petition Under Section 711.03(c) - Section 2 and Response to Notification of Defective Response," accompanied by a translation and docket printouts.

On 08 July 2002, the Office mailed "Notification" indicating that the application contained conflicting instruction and would be processed as a 35 U.S.C. §111(a) application.

On 04 August 2003, applicant submitted the instant petition.

DISCUSSION

The transmittal letter (Form PTO-1390) filed on 22 May 2001 identified the application as "a filing under 35 U.S.C. 371." However, the transmittal letter (bottom margin) and the preliminary amendment claim benefit under 35 U.S.C. §120 to the PCT application. Applicant's benefit claim under §120 to the international application is inconsistent with a filing under U.S.C. §371. Since applicant gave conflicting instructions, the papers were considered filed under 35 U.S.C. §111(a).

Applicant argues that the 35 U.S.C. §120 claim is not a conflicting instruction. 35 U.S.C. §120 allows for claims to prior filed applications, by either 111(a) filings or international applications. Applicant claimed priority to the international application as a prior filed application. By doing so, applicant indicated that the 22 May 2001 submission was a different application from the international application filed 17 October 2000. A 35 U.S.C. 371 application is the international application and does not claim priority to itself.

Applicant argues that its 111(a) application will be rejected based on applicant's published international application. This is not the case. Applicant is entitled to claim benefit under 35 U.S.C. §120 and §365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 09/856,390) and the international application (PCT/EP00/10189) designating the United States were copending on 22 May 2001.

CONCLUSION

For the above reasons, the petition submitted 04 August 2003 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper

response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the 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. As of 01 October 2004, the undersigned may be reached at 571-272-3292 and PCT Legal Administration's facsimile number will be 571-273-0459.

This application is being returned to Art Unit 3617 for further processing .

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

NOV 2 0 2001

#4

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LACKENBACH SIEGEL
MARZULLO ARONSON & GREENSPAN
ONE CHASE ROAD
SCARDALE, NY 10583

In re Application of	:	
KOJIMA	:	DECISION ON
Application No.: 09/856,393	:	
PCT No.: PCT/JP99/05257	:	PETITION
Int. Filing Date: 27 September 1999	:	
Priority Date: None	:	UNDER 37 CFR 1.181,
Attorney's Docket No.: P-0105 $	:	
For: PRONUNCIATION EVALUATION SYSTEM	:	1.182 & 1.183

This is in response to applicant's "Petition under 37 CFR 1.181, 1.182 and 1.183 with Supporting Declaration" filed in the United States Patent and Trademark Office (USPTO) on 11 July 2001, requesting the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a).

BACKGROUND

On 22 May 2001, applicant submitted U.S. national application papers including a Transmittal Letter (Form PTO-1390) requesting processing as a national stage application under 35 U.S.C. 371. Applicant also filed a purported English translation of the international application. The first sentence of the specification submitted indicated the following: "This is a Continuation Application of PCT Application No. PCT/JP99/05257 filed September 27, 1999, which was not published under PCT Article 21(2) in English." The papers were treated as a national stage filing under 35 U.S.C. 371 and assigned application no. 09/856,393.

On 11 July 2001, applicant filed the instant petition requesting that the application be converted from a national stage application under 35 U.S.C. 371 to a U.S. application filed under U.S.C. 111(a).

DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13

entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

On 22 May 2001, applicant filed the basic national fee for entry into the national stage in the USPTO and a transmittal letter identifying the application as a filing under 35 U.S.C. 371. However, a claim of continuation status of PCT/JP99/05257 is made in the accompanying specification, where the following statement appears at page 1 thereof: "This is a Continuation Application of PCT Application No. PCT/JP99/05257 filed September 27, 1999, which was not published under PCT Article 21(2) in English." Applicant's benefit claim under 35 U.S.C. 120 to the international application made at the top of the first page of his specification is inconsistent with a filing to treat the present application as the national stage of PCT/JP99/05257 under 35 U.S.C. 371.

In view of the above noted conflicting instructions, the papers are considered as having been filed under 35 U.S.C. 111(a).

CONCLUSION

For the reasons above, the petition to treat the present application as a filing under 35 U.S.C. 111(a) is **GRANTED**. The "Notification of Acceptance" (Form PCT/DO/EO/903) mailed 05 July 2001 is hereby **VACATED**.

The application is being forwarded for the National Stage Processing Branch of the Office of PCT Operations to remove the Article 20 papers communicated from the International Bureau to the United States of America. The application will then be forwarded to the Office of Initial Patent Examination for processing the present application as a filing under 35 U.S.C. 111(a) and having a filing date of 22 May 2001.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Boris Milef
Legal Examiner
PCT Legal Office

CMK/BM:cmk
Telephone: (703) 306-5467

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
JUL 23 2001
Technology Center 2600

In re the New U.S. Patent Application of

Akitoshi KOJIMA

Examiner:

Serial No.: 09/856,393

Art Unit:

Filed: May 22, 2001

Docket: P-0105 S

Please deliver to Examiner BORIS MILEF

For: Pronunciation Judgment System

Commissioner of Patents: Attn – PCT Petitions Branch – By Fax (703 308 6459 – 10 pages)
Washington, D.C. 20231

PETITION UNDER 37 CFR §§1.181, 1.182 AND 1.183
WITH SUPPORTING DECLARATION

RECEIVED
11 JUL 2001
Legal Staff
International Division

SIR:

For the reasons set forth below, this petition is being submitted to:

I. Convert the filing of the above-identified application from a filing under 35 U.S.C. §371 to one filed under 35 U.S.C. §111;

II. To identify the subject application as a continuation application, pursuant to 35 U.S.C. §120, of International Patent Application (filed in Japan) No. PCT/JP99/05257, filed on September 27, 1999;

III. Request that a credit be issued to our account no. 10-0100 in the amount of $150.00, which is the difference between the amount of $900.00, which has been paid as a filing fee, and $750.00, the amount that should have been paid ($710.00 plus $40.00 assignment recordation fee) had this application originally been filed under 35 U.S.C. §111.

The facts in support of this Petition are as follows:

(1) The application was received from an associate firm in Japan on May 21, 2001. The

associate firm requested that we file the application by May 25, 2001.

(2) The Japanese associate in question had sent a number of patent applications to our firm for filing. In each case, we were given priority materials either in the form of copies of or reference to a Japanese national application, or in the form of copies of documents previously filed in a PCT application based on a Japanese national application.

(3) In the first case (Japanese national filing), we were asked to file a U.S. national application deriving priority from the Japanese application. In the second case, we were asked to file a National Phase application in the U.S. based on the PCT patent application.

(4) When we received the filing materials for the above-captioned U.S. filing, we were given copies of documents previously filed in the PCT, as well a translation of a filing in Japanese into the English language. This English translation we considered, in our U.S. filing materials, to be "A English-language translation of the International Application," and checked the appropriate box.

(5) In the "cover" or "order" letter received from our Japanese associate, a copy of which is attached, the enclosures were identified. Included were "specification and claims," "formal drawings," "informal drawings," "Declaration & power of attorney," "Inventors' Assignment/consent," and a **"Copy of int'l search report/cited art"** as well as a **"First page of Intern'l Publication."**

(6) On the basis of the prior filings for this Japanese associate, and on the basis of instructions that the application be filed "on the basis of the above-identified PCT application" ("SPECIFIC REMARKS," no. (1)), it was assumed that the application was to be filed pursuant to 35 U.S.C. 371,

as a National Phase of the PCT application. The person in charge of filing these materials in the U.S. read "continuation application" in the same "REMARK no. (1)" to be just the foreign associate's approximate way of indicating "National Phase application," which would "continue" the prosecution of the PCT application as the next, or national, stage in the U.S. of the original PCT application.

(7) We filed this application in the U.S. Patent Office on May 22, 2001, under 35 U.S.C. 371, as a National Phase of the original PCT filing, PCT/JP99/05257, and duly reported it to our client, with copies of the documents filed.

(8) By fax letter of June 13, 2001, our Japanese associate questioned our entry on the PCT transmittal letter (Form PTO-1390) stating that an English translation of the international application had been filed. Our associate indicated that the English language document was not, in fact, an English translation of the PCT application, but a specification for a continuation application based on the PCT application. Attached is a copy of our associate's June 13, 2001 fax letter.

(9) This was the first time that applicant's U.S. attorney became aware of the inadvertent error that had been made and that applicant had requested that the application be filed as a true continuation application under 35 U.S.C. §§120, 363, and that the specification and claims were not translations of the International PCT application.

(10) Applicant's U.S. attorneys thereupon sought to convert the application to a Rule 53(b) continuation application and conducted several conferences with the PCT Legal Office. It was indicated that a Petition could be filed to effect such conversion.

(4

New U.S. Patent Application of Akitoshi KOJIMA
Serial No.: 09/856,393
Docket: P-0105 S

(11) In these circumstances, and in view of applicant's continuing desire to file this national application as a continuation application, it is respectfully requested that this Petition be considered under Rules 181, 182 and 183.

(12) Please charge the Petition fee set forth in 37 CFR §1.174(h) of $130.00 to our account no. 10-0100.

A Declaration by Adrienne Shirley is attached hereto in support of the facts stated herein.

Dated: June 29, 2001

Respectfully submitted,

Lackenbach Siegel Marzullo
One Chase Road
Scarsdale, NY 10583
Telephone: 914 723 4300
MG/as

LACKENBACH SIEGEL
Attorneys for Applicant(s)

By: _____
MYRON GREENSPAN
Reg. No.: 25,680

Certificate of Deposit by Facsimile
I hereby certify that this correspondence is being filed by sending same by facsimile to the Petitions Branch, U.S. Patent Office, Washington, D.C. 20231, at facsimile number 703 308 6459, on the following date:

Myron Greenspan
Attorney
_____
Signature
June 29, 2001
Date

Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.

SUZUYE & SUZUYE Kasumigaseki UBE Bldg., 3-7-2 Kasumigaseki, Chiyoda-ku, Tokyo 100-0013, Japan
Facsimile +813-3501-5663 / +813-3501-5672 : Telephones: +813-3502-3181 / +813-3502-3186(Direct)

Dated May 18, 2001 Our Ref. 2SK-99S0755P1

Lackenbach Siegel Marzullo Aronson & Greenspan, P.C.
Lackenbach Siegel Building, One Chase Road, Scarsdale, N.Y. 10583, U. S. A. Tel. 914-723-4300

Gentlemen:

Please file an application in accordance with the following particulars.As soon as you receive this case, please acknowledge receipt, most desirably by faxing the attached sheet (Fax: +813-3501-5663 or -3501-5672) with a suitable acknowledgment thereon, along with your docket number. Please acknowledge by fax on THE DAY OF RECEIPT of these instructions.

CONTINUATION APPLICATION IN THE UNITED STATES
based on INTERNATIONAL APPLICATION (filed in Japan) No. PCT/JP99/05257, filed September 27, 1999

TITLE: PRONUNCIATION JUDGEMENT SYSTEM

ASSIGNEE:
KOJIMA CO., LTD., a Japanese corporation, located at 1-8, Hoshigaoka 2-chome, Utsunomiya-shi, Tochigi 320-8528 Japan

INVENTOR: (Nationality/citizenship is given in the parentheses)
Mailing and Residence Address(es)
Akitoshi Kojima, of c/o KOJIMA CO., LTD., 1-8, Hoshigaoka 2-chome, Utsunomiya-shi, Tochigi 320-8528 Japan (Japan)

A LIST OF BASIC APPLICATIONS: (Please claim priority from the applications marked 'Yes' below.)

Country	Category	Application No.	Filing date	Priority Claim
(N O N E)				

A LIST OF DOCUMENTS ([X] - Enclosed [ ] - To follow [/ /] - Irrelevant item to be disregarded)

- [X] Specification & claims
- [X] Formal drawings
- [X] Informal drawings
- [X] Declaration & power of attorney
- [X] Inventors' Assignment/consent
- [X] Priority document(s)
- [ ] Information Disclosure Statement(see(8)below)
- [X] Copy of int'l search report/cited art(see(8)below)
- [X] First page of Intern'l Publication

SPECIFIC REMARKS:

(1) Please file a Rule 53(b) continuation application on the basis of the above-identified PCT applicaiton definitely on or before May 25, 2001(Friday)(20 months from the priority date), and in any event [if Saturday is your official holiday], the first working day of May 27, 2001.
The parent(PCT) application SHOULD be abandoned.
(2) Inventorship remains unchanged.
(3) This PCT application was filed and ~~was~~ will be published in the Japanese language.
(4) No amendments have been made under PCT Article 19 and Article 34.
(5) The International Search Report has already been issued by the JPO.
(6) ~~Please do/do not file a Rule 1.213 nonpublication request. The invention has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement.~~
(7) The name of the city and country where each inventor resides is marked in purple above.
(8) If a copy of the int'l search report/cited art or prior art reference(s) is enclosed, please prepare and file an IDS.
(9) When the declaration is not enclosed, please indicate in the petition the residence of each inventor, and No. and filing date of each basic application, so that they appear in the official filing receipt.
(10) When the error-carrying official filing receipt is received, please do NOT automatically apply for corrections, but merely put this to our attention.
(11) If you need to reach us outside normal working hours, you may call (Mr) Hideo Nakamori at home at 81-47-372-6154. (A telefax may also be sent to him by dialing the same number without a warning phone call.)
(12) Upcoming Holidays (Suzuye closed): none within about two-week time

SUZUYE & SUZUYE
PATENT & LAW FIRM SINCE 1910
Kasumigaseki UBE Bldg., 3-7-2 Kasumigaseki, Chiyoda-ku, Tokyo 100-0013, Japan

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AKIRA KUNO
MAKOTO NAKAMURA
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TAKASHI MIPE
TETSUYA KAZAMI
YUSHIHIRO FUKUHARA
YOSHIO SHIMANE
YUKO KAJIURA
NOBUHIRO NOGAWA
ATSUSHI TSUBOI
YOSHIO ISHIKAWA
TADAHIRO SUZUYE
KAZUYOSHI NAKAMURA

KENSUKE HORIGUCHI

RYUTARO KOIKE
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HIROSHI KATSUNUMA
HIDEO YOSHINO
MASANOBU TAKAYUKI
NOBUNOBU SAITO
MASAKO NISHIMURA
ATSUSHI KATSUMI
SHIGEYOSHI HATA
HIROSHI SUDA
TAKASHI OKADA
SARAH MIYANAGA
YUSU HARA
HIROKO NAKAUCHI

*Agent of Law
*Certified Public Tax Accountant

SENT BY FAX
Total No. of Pages: 1
Fax to : 914-723-4301
Fax from: +81-3-3501-5863
Confirmation by Mail: YES

Your ref. P-0105 S
Our ref. 2SK-99S0755P1

Ms. Adrienne Shirley
Lackenbach Siegel Marzullo
Aronson & Greenspan, P.C.
Lackenbach Siegel Building,
One Chase Road,
Scarsdale, N.Y. 10583,
U. S. A.

June 13, 2001

U.S. Patent Application No. 09/856,393
Akitoshi KOJIMA (KOJIMA CO., LTD.)

Dear Ms. Shirley:

We have noticed that the Petition filed in this case is titled "PCT Patent Application (national phase)" and a box for " An English translations of the International Application" is checked.

What we sent to you with our filing instruction is NOT an English translation of the PCT application, but a specification for a continuation application based on the PCT application.

Please urgently check your record and file and see that everything is in order.

Your reply by return facsimile is requested.

Very truly yours,

SUZUYE & SUZUYE

International Administration Div.

HN/yo

(7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the New U.S. Patent Application of

Akitoshi KOJIMA

Examiner:

Serial No.: 09/856,393

Art Unit:

Filed: May 22, 2001

Docket: P-0105 S

For: Pronunciation Judgment System

HAND DELIVERED TO:

Commissioner of Patents: Attn – Petitions Branch
Washington, D.C. 20231

DECLARATION OF ADRIENNE SHIRLEY
IN SUPPORT OF PETITION CONVERT STATUS OF PATENT APPLICATION

SIR:

I, Adrienne Shirley, do declare:

1. I am employed by the law firm of Lackenbach Siegel as a Paralegal / Assistant, and have been so employed for eight years.

2. I have been accustomed to process new applications for filing in the U.S. Patent Office since I began work here in January 1993.

3. On or around May 21, 2001, I received a package from one of our associate firms in Japan. The associate firm requested that we file the application by May 25, 2001.

3. This Japanese associate had sent many applications to our firm for filing. We were given priority materials either in the form of copies of or reference to a Japanese national application, or in the form of copies of documents previously filed in a PCT application based on a Japanese national application.

4. With Japanese national filing priority cases, we were asked to file a U.S. national application deriving priority from the Japanese application. In the second case, we were asked to file a National Phase application in the U.S. based on the PCT patent application.

5. When I received the filing materials for the above-captioned U.S. filing, I noted that the packet contained copies of documents previously filed in the PCT, as well a translation of a filing in Japanese into the English language. I considered this English translation to be "A English-language translation of the International Application," and checked the appropriate box on Form 1390 (PCT Chapter II filing).

6. The cover letter received from our Japanese associate identified the enclosures as specification and claims," "formal drawings," "informal drawings," "Declaration & power of attorney," "Inventors' Assignment/consent," and a "Copy of int'l search report/cited art" as well as a "First page of Intern'l Publication."

7. On the basis of the prior filings I had processed for our Japanese associates, and on the basis of this associate's instructions that the application be filed "on the basis of the above-identified PCT application," I assumed that the application was to be filed pursuant to 35 U.S.C. 371, as a

National Phase of the PCT application, and processed it accordingly. I read the associate's phrase "continuation application" to mean just an approximate way of indicating a "PCT National Phase application," which would "continue" the prosecution of the PCT application as the next, or national, stage in the U.S.

8. Our firm filed this application in the U.S. Patent Office on May 22, 2001, under 35 U.S.C. 371, as a National Phase of the original PCT filing, PCT/JP99/05257, and it was duly reported to our client, with copies of the documents filed.

9. On June 13, 2001, our Japanese associate faxed us a letter questioning our statement on the PCT transmittal letter (Form PTO-1390) that an English translation of the international application was attached to our filing. The associate indicated that this English-language document was not a translation of the PCT application, but rather an English-language specification for a continuation application based on the PCT application.

10. This was the first time that I or, to my information and believe, that anyone in this firm became aware that an inadvertent error had been made, and that the applicant had requested that the application be filed as a true continuation application under 35 U.S.C. §§120, 363, and that the specification and claims were not translations of the International PCT application.

11. My supervising attorney in this matter then attempted to convert the application to a Rule 53(b) continuation application and conducted several conferences with the PCT Legal Office. It was indicated that a Petition could be filed to effect such conversion.

New U.S. Patent Application of Akitoshi KOJIMA
Serial No.: 09/856,393
Docket: P-0105 S

12. In view of applicant's continuing desire to file this national application as a continuation application, we have submitted this Petition for consideration under Rules 181, 182 and 183.

I, Adrienne Shirley, hereby state that all statement made herein of my own knowledge are true and that all statement made on information and believe are believed to be true.

Dated: June 29, 2001

Adrienne Shirley

Adrienne Shirley

********** -COMM. JO[redacted]EL- ********** DATE JUN-29-2001 [redacted]** TIME 15:07 *** P.01

MODE = MEMORY TRANSMISSION START=JUN-29 15:04 END=JUN-29 15:07

FILE NO.= 207

STN NO.	COM	ABBR NO.	STATION NAME/TEL.NO.	PAGES	DURATION
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-LACKENBACH SIEGEL -

********** -914 723 4301 - ***** - 914 723 4301- **********

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the New U.S. Patent Application of

Akitoshi KOJIMA

Examiner:

Serial No.: 09/856,393

Art Unit:

Filed: May 22, 2001

Docket: P-0105 S

For: Pronunciation Judgment System

Commissioner of Patents: Attn – PCT Petitions Branch – By Fax (*703 308 6459* – 10 pages)
Washington, D.C. 20231

PETITION UNDER 37 CFR §§1.181, 1.182 AND 1.183
WITH SUPPORTING DECLARATION

SIR:

For the reasons set forth below, this petition is being submitted to:

I. Convert the filing of the above-identified application from a filing under 35 U.S.C. §371 to one filed under 35 U.S.C. §111;

II. To identify the subject application as a continuation application, pursuant to 35 U.S.C. §120, of International Patent Application (filed in Japan) No. PCT/JP99/05257, filed on September 27, 1999;

III. Request that a credit be issued to our account no. 10-0100 in the amount of $150.00, which is the difference between the amount of $900.00, which has been paid as a filing fee, and $750.00, the amount that should have been paid ($710.00 plus $40.00 assignment recordation fee) had this application originally been filed under 35 U.S.C. §111.

The facts in support of this Petition are as follows:

(1) The application was received from an associate firm in Japan on May 21, 2001. The

FEB 03

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jiawei Huang
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	DECISION ON PETITION
PCT No.: PCT/JP00/07229	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 18 October 2000	:	
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	:	

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)" filed 12 October 2001 to accept the application without the signatures of joint inventor, Hitoshi Tambo. The required petition fee of $130.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicant filed the present petition under 37 CFR 1.47(a) and a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims and drawings to Hitoshi Tambo. The mailing of the Declaration, Assignment, and Power of Attorney is not considered a complete copy of the application paper (specification, including claims, drawings, and oath and declaration). Additionally, Mineo Ishii states, "[t]he letter was delivered to Mr. Tambo on August 26, 2001" and has provided copies of the registered letter (Evidence 1) and delivery certificate (Evidence 2) to Mr. Tambo, however, these documents are in Japanese and have not been translated. Nor has Tambo's response (i.e. "Evidence 3) been translated. Applicant's must provide complete translations of Evidence 1, 2 and 3. Lastly, the declaration of Mineo Ishii states that, "Mr. Yushuhiro Kosawa succeeded in contacting with Mr. Tambo by telephone on September 5, 2001, and requested

his signature. In response, Mr. Tambo told Mr. Kozawa that he would not sign the documents." As stated above, "[w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made." The statements regarding the refusal constitutes secondhand knowledge in that the refusal was made to Yashuhiro Kozawa, not Mineo Ishii.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Hitoshi Tambo under 37 CFR 1.47(a) at this time.

Additionally, the declaration is executed by Yasuhiro Kozawa, whereas the international application lists the inventor as Yasuhiro Kosawa. Clarification is required.(See MPEP 201.03, Page 200-5).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

FED

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUN 07 2002
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FP00-034US

Jiawei Huang
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of :
NAKANO et al. :
U.S. Application No. 09/856,402 : DECISION ON PETITION
PCT No.: PCT/JP00/07229 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 18 October 2000 :
Priority Date: 18 October 1999 :
Attorney Docket No.: EHAR0010 :
For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR :

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)" filed 12 October 2001 to accept the application without the signatures of joint inventor, Hitoshi Tambo. The required petition fee of $130.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicant filed the present petition under 37 CFR 1.47(a) and a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Hitoshi Tambo. The mailing of the Declaration, Assignment, and Power of Attorney is not considered a complete copy of the application paper (specification, including claims, drawings, and oath and declaration). Additionally, Mineo Ishii states, "[t]he letter was delivered to Mr. Tambo on August 26, 2001" and has provided copies of the registered letter (Evidence 1) and delivery certificate (Evidence 2) to Mr. Tambo, however, these documents are in Japanese and have not been translated. Nor has Tambo's response (i.e. Evidence 3) been translated. Applicant's must provide complete translations of Evidence 1, 2 and 3. Lastly, the declaration of Mineo Ishii states that, "Mr. Yushuhiro Kosawa succeeded in contacting with Mr. Tambo by telephone on September 5, 2001, and requested

his signature. In response, Mr. Tambo told Mr. Kozawa that he would not sign the documents." As stated above, "[w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made." The statements regarding the refusal constitutes secondhand knowledge in that the refusal was made to Yashuhiro Kozawa, not Mineo Ishii.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Hitoshi Tambo under 37 CFR 1.47(a) at this time.

Additionally, the declaration is executed by Yasuhiro Kozawa, whereas the international application lists the inventor as Yasuhiro Kosawa. Clarification is required.(See MPEP 201.03, Page 200-5).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

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JUN 0 7 2002
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5023

J.C. PATENTS, INC.
PH 949-660-0761
1340 REYNOLDS AVENUE
IRVINE, CA 92614

16-395/1222

10/19/2001 DATE

PAY TO THE ORDER OF Commissioner for Patents $ 395—

Three hundred ninety five DOLLARS

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FOR 09/856,402 (EHAR0010)

MP

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UTILITY PATENT

DATE: October 09, 2001

Response to Notice to File Missing Parts

DATE OF OA: June 21, 2001

Received in the U.S. Patent and Trademark Office on the date stamped hereon:

Atty. Docket #: **EHAR0010** Appl. No.: 09/856,402 Filed on: 2001/5/21

Examiner: Art Unit:

Applicant(s): MITSUYUKI NAKANO et al

Title: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR

[X] Transmittal Sheet in Duplicate

[X] Response to Notification of Missing Parts

[X] Petition under 37 CFR 1.47.

[X] Copy of Notification.

[X] A copy of Executed Declaration and Power of Attorney signed by the inventors.

[X] Check $ 395 for petition fee.

[X] Request for Changing Correspondence Address.

[X] Return Postcard

PLEASE DATE, STAMP AND RETURN

OIPE JC12
JUN 07 2002
PATENT & TRADEMARK OFFICE

PATENT

Docket No.: EHAR0010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: TERUYUKI NAKANO et al.

Application No.: 09/856,402

Filed: May 21, 2001

For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR

Examiner:

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

October 09, 2001
(Date)

Jiawei Huang, Reg. No. 43,330

TRANSMITTAL LETTER AND COMMUNICATION

BOX MISSING PARTS
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Dear Sir:

In response to the Notification of Missing Requirements under 37 U.S.C. 371, which was mailed by the Patent and Trademark Office on June 21, 2001, enclosed are:

(X) Petition under 37 CFR 1.47 (a).
(X) A Declaration and Power of Attorney executed by inventor(s).
(X) An extension of time to respond for 2 month(s) is hereby requested.
Time Extension Fee:
() one month ($ 55 small entity)
(X) two months ($ 200 small entity)
() three months ($ 460 small entity)

(X) A copy of Notification of Missing Requirement under 35 USC 371.
(X) Request for Changing Correspondence Address.

OTHER ITEMS
(X) Return prepaid postcard.
(X) Fees as calculated below:

CLAIMS AS FILED

Petition Fee under 37 CFR 1.47 (a)	$ 130
Surcharge Fee under 37 CFR 1.492 (e)	$ 65
Fee for [2] Months Time extension	$ 200
For a small entity: TOTAL FILING FEE	**$ 395**

(X) A check in the amount of **$ 395** cover the above fees is enclosed.

(X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-0710 (Order No. EHAR0010). A duplicate copy of this sheet is enclosed.

Respectfully submitted,
J.C. PATENTS,

Dated: 10/9/2001

By: _____
Jiawei Huang
Registration No. 43,330

Please send Correspondence to:
4 Venture, Suite 250
Irvine, California 92618
(949) 660-0761

In re application of:		)
Application No.:	09/856,402	)
Filed:	May 21,2001	)
For:	POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	)
Examiner:		)
Art Unit:		)

PETITION UNDER 37 CFR 1.47 (a)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Sir:

As evidenced by the attached copy of the letters dated August 22, 2001 ("evidence 1") and September 9, 2001 ("evidence 3") and the attached statement of Mr. Mineo Ishii, diligent effort has been made to reach the inventor, Hitoshi Tambo, of the above-identified application. But Mr. Tambo refused to the application papers.

According to the employment agreement, all intellectual property rights of Tambo's inventions made during his employment at Kabushiki Kaisha Ishii Hyoki have been assigned, or under obligation to be assigned, to Kabushiki Kaisha Ishii Hyoki. Accordingly, the other inventors, Teruyki Nakano; and Yasuhiro Kozawa, of the above-identified application, made the application for patent on behalf of Hitoshi Tambo under 37 C.F.R. 1.47(a) so as to preserve the assignee's rights.

The last known address of Hitoshi Tambo is:

4-7-9, Eda-Nisi, Aoba-Ku,
Yokohama-shi, Kanagawa-ken, Japan

The required fee $130 under 37 C.F.R. 1.17(h) is enclosed.

Respectfully submitted,
J.C. PATENTS

Jiawei Huang
Registration No. 43,330

4 Venture, Suite 250
Irvine, CA 92618
(949) 660-0761

OIPE JC12
JUN 07 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	TERUYUKI NAKANO et al.	)
Application No.:	09/856,402	)
Filed:	May 21,2001	)
For:	POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	)))
Attorney Docket No.	EHAR0010	)
Examiner:		)
Art Unit:		)

DECLARATION OF MINEO ISHII

I, Mineo Ishii, do hereby declare that:

1. I am the president of Kabushiki Kaisha Ishii Hyoki, a company located at 5, Asahigaoka, Kannabecho, Fukayasu-gun, Hiroshima 720-2113, Japan.

2. I am aware that the above-identified application names as joint inventors: Teruyuki Nakano; Yasuhiro Kozawa; and Hitoshi Tambo.

3. I am aware that Mr. Hitoshi Tambo was hired by Kabushiki Kaisha Ishii Hyoki on April 10, 2000 as an engineer and retired on May 20, 2001. I am further aware that, while working at Kabushiki Kaisha Ishii Hyoki, Mr. Tambo contributed to the development of the invention disclosed and claimed in the above-identified application.

4. I am aware that Mr. Tambo's last known address at the time he retired from Kabushiki Kaisha Ishii Hyoki was 4-7-9, Eda-Nisi, Aoba-Ku, Yokohama-shi, Kanagawa-ken, Japan.

5. I am aware that, according the employment agreement, all intellectual property rights of Mr. Tambo's inventions made during his employment at Kabushiki Kaisha Ishii Hyoki have been assigned, or under obligation to be assigned, to Kabushiki Kaisha Ishii Hyoki.

6. Kabushiki Kaisha Ishii Hyoki has attempted to contact Mr. Tambo by mail and telephone to obtain his signature on the documents (the Declaration and Power

of Attorney, and the Assignment). More particularly:

a) Kabushiki Kaisha Ishii Hyoki sent Mr. Tambo a registered letter dated August 22, 2001 to inform him the filling of the above identified application and to request him to execute the documents. (See the attached copy of the receipt of the registered letter labeled as "evidence 1").
b) The letter was delivered to Mr. Tambo on August 26, 2001. (See the attached copy of the delivery certificate labeled as "evidence 2").
c) After receiving the returned delivery certificate, Mr. Yasuhiro Kozawa, on behalf of Kabushiki Kaisha Ishii Hyoki, tried to contact Mr. Tambo by telephone on August 30, and September 5, 2001.
d) Mr. Yasuhiro Kozawa succeeded in contacting with Mr. Tambo by telephone on September 5, 2001, and requested his signature. In response, Mr. Tambo told Mr. Kozawa that he would not sign the documents.
e) Mr. Kozawa received a letter dated September 9, 2001 from Mr. Tambo with the documents returned without his signature. (See the attached copy of Mr. Tambo's letter labeled as "evidence 3").

7. Based on my present knowledge, Mr. Tambo has refused to sign the Declaration and Power of Attorney, and the Assignment.

8. I declare that all the statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application and any patent issued thereon.

Dated: 1, Oct., 2001

By: 石井 峯夫
Mineo Ishii
President
Kabushiki Kaisha Ishii Hyoki

8-12

evidence 1

内容証明書用紙

米国特許出願に関する宣誓書及び譲渡書への署名依頼書

貴殿が野社に在職中に出願した左記のPTCに基づく国際出願を米国に移行するに際し別途郵送しております宣誓書及び譲渡書に署名を頂き平成十三年八月三十一日迄に、ご返送頂くようお願い致します。

国際特許出願番号

PTC/JP00/02229

国際出願日

2000年10月18日

発明の名称

半導体ウエハーの外周エッジ研磨装置

平成十三年八月二十二日

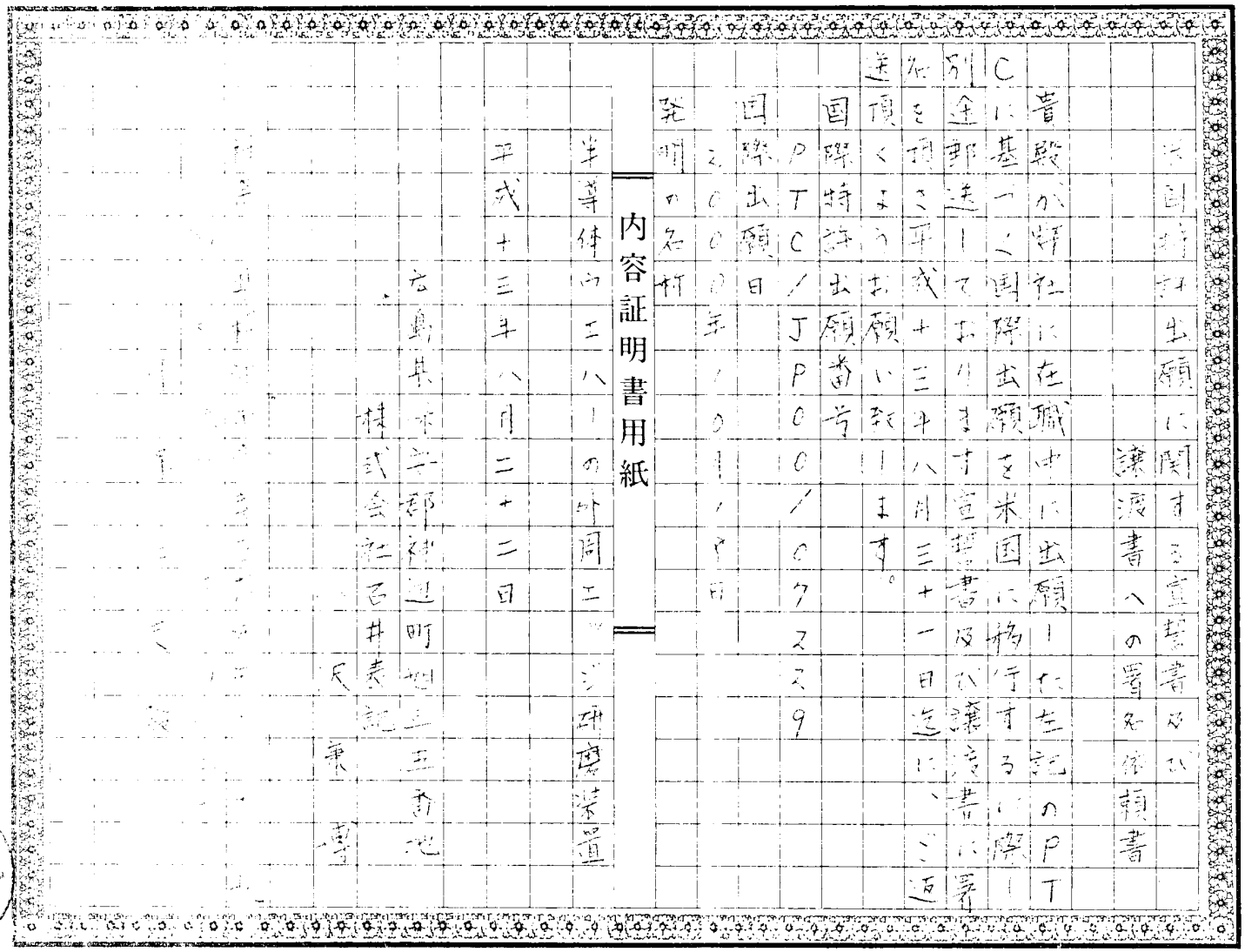
広島県東京都神辺町旭三丁目地

株式会社石井表記

民兼博

この郵便物は平成13年8月22日第180-18号
書留内容証明郵便物として差し出したことを証明します

御領郵便局長



13.8.22
8-9

evidence 2

郵便物配達証明書

受取人の氏名	丹保 仁志 様
引受番号	180-18-13812-1

上記の郵便物は、13年 8月26日配達したのでこれを証明します。

神奈川県

青葉郵便局

ユ07370 (13.3・ヨシダ◎納・03) 再生紙使用

郵便物配達証明書

受取人の氏名	丹保 仁志 様
引受番号	180-18-13813-2

上記の郵便物は、13年 8月26日配達したのでこれを証明します。

神奈川県

青葉郵便局

ユ07370 (13.3・ヨシダ◎納・03) 再生紙使用

evidence 3

小澤さん.

特許は、特にサインする必要も無い

様なのでサインせずにお送りします。

丹保

2001/9/9

OIPE JUN 07 2002 PATENT & TRADEMARK OFFICE

DECLARATION AND POWER OF ATTORNEY - USA PATENT APPLICATION (37 CFR 1.63)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR

the specification of which:

(a) ( ) is attached hereto, or

(b) (X) was described and claimed in PCT International Application No. PCT/JP00/07229 filed on 10/18/00 (MM/DD/YY) and as amended under PCT Article 19 on _____ (if any) and/or under PCT Article 34 on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 CFR 1.56;

I hereby claim foreign priority benefits under 35 U.S.C. 119 (a)-(d) or 365(b) of any foreign application(s) for patent, design or inventor's certificate, or 365(a) of any PCT international application(s) which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN APPLICATION(S):

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (MM/DD/YY)	PRIORITY CLAIMED
JP	11-295847	10/18/99	YES
JP(PCT)	PCT/JP00/07229	10/18/00	YES

POWER OF ATTORNEY:

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Jiawei Huang (Reg. No. 43,330) **Charles C.H. Wu (Reg. No. 39, 081)**
Maria Erlinda C. Sarno (Reg. No. 37,436) **Belinda Lee (Reg. No. 46, 8632)**

SEND CORRESPONDENCE TO:

J.C. Patents, Inc.
1340 Reynolds Ave., Suite 114
Irvine, California 92614
(949) 660-0761

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)
Jiawei Huang
(949) 660-0762

DECLARATION AND POWER OF ATTORNEY –CONTINUED

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor: TERUYUKI NAKANO

Inventor's signature: _____ Date: 10. JULY, 2001

Citizenship: JAPAN

Residence and Post Office Address: 5, ASAHIGAOKA, KANNABECHO, FUKAYASU-GUN, HIROSHIMA 720-2113, JAPAN.

Full name of second inventor: YASUHIRO KOZAWA

Inventor's signature: _____ Date: 10. JULY, 2001

Citizenship: JAPAN

Residence and Post Office Address: 5, ASAHIGAOKA, KANNABECHO, FUKAYASU-GUN, HIROSHIMA 720-2113, JAPAN.

Full name of third inventor: HITOSHI TAMBO

Inventor's signature: _____ Date: _____

Citizenship JAPAN

Residence and Post Office Address: 5, ASAHIGAOKA, KANNABECHO, FUKAYASU-GUN, HIROSHIMA 720-2113, JAPAN.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/856402	NAKANO K	EHAR0010

INTERNATIONAL APPLICATION NO
PCT/JP00/07229

I.A. FILING DATE	PRIORITY DATE
18 OCT 00	18 OCT 99

J C PATNETS
1340 REYNOLDS AVENUE SUITE 114
IRVINE, CA 92614

DATE MAILED 21 JUN 2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1 The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☐ an Elected Office (37 CFR 1.495):

- ☒ U.S. Basic National Fee.
- ☒ Indication of Small Entity Status.
- ☒ Copy of the international application.
- ☒ Translation of the international application into English.
- ☐ Oath or Declaration of inventors(s).
- ☐ Translation of Article 19 amendments into English.
- ☐ Copy of Article 19 amendments.
- ☐ Other:
- ☒ Priority Document.
- ☐ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.

2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee.
- ☐ Copy of the international application.

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of $ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☐ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes MUST be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875 ☐ PCT/DO/EO/920

VONDA WALLACE

FORM PCT/DO/EO/905 (March 2001)

Telephone: 703-305 - 3736

PATENT

OIPE JC12
JUN 07 2002
PATENT & TRADEMARK OFFICE

CHANGE OF CORRESPONDENCE ADDRESS Application		
	Application No.:	09/856,402
	Filing Date:	2001/5/21
	First Named Inventor:	TERUYUKI NAKANO
	Group Art Unit:	
	Examiner:	
	Attorney Docket No.:	EHAR0010

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Please change the Correspondence Address for the above-identified application to:

[X] Firm or Individual Name	**J.C. PATENTS INC.**				
Address	**4 Venture, Suite 250**				
City	**Irvine**	State	**CA**	ZIP	**92618**
Country	**US**				
Telephone	**(949)660-0761**	Fax	**(949)660-0809**		

I am the:

[ ] Applicant / Inventor.

[ ] Assignee of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

[X] Attorney or Agent of record.

[ ] Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration No._____

Type or Printed Name	**Jiawei Huang**	Registration No.	**43,330**
Signature			
Date	**October 9, 2001**		

[X] Total of 1 form is submitted.

04 SEP 2002

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jiawei Huang
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	DECISION ON PETITION
PCT No.: PCT/JP00/07229	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 18 October 2000	:	
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 07 June 2002 to accept the application without the signature of joint inventor, Hitoshi Tambo.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. The international application listed Yoshiyuki Nakano; Yasuhir Kosawa; and Hitoshi Tambo as applicant/inventors. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicants filed petition under 37 CFR 1.47(a). The petition was dismissed in a decision dated 05 February 2002.

On 07 June 2002, applicants filed the present renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Hitoshi Tambo. Additionally, Yasuhiro Kozawa declares that Hitoshi Tambo has refused to sign the application papers.

As to item (4), a review of the declaration filed 12 October 2001 is defective pursuant to 37 CFR 1.497. Specifically, the declaration has been executed by "Teruyuki" Nakano whereas the international application lists "Yoshiyuki" Nakano as the first inventor. In that this is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

Applicant states in the present petition that Yasuhiro Kozawa is the correct name of the third inventor. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the second named inventor's name is accepted and noted for the record.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

10 DEC 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jiawei Huang
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	
PCT No.: PCT/JP00/07229	:	DECISION ON PETITION
Int. Filing Date: 18 October 2000	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 24 September 2002.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. The international application listed Yoshiyuki Nakano; Yasuhir Kosawa; and Hitoshi Tambo as applicant/inventors. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicants filed petition under 37 CFR 1.47(a). The petition was dismissed in a decision dated 05 February 2002.

On 07 June 2002, applicants filed renewed petition under 37 CFR 1.47(a). The petition was dismissed in decision dated 04 September 2002 because the declaration was defective pursuant to 37 CFR 1.497.

On 24 September 2002, applicants filed the present renewed petition which was accompanied by untranslated Japaneses document.

DISCUSSION

The communication entitled "Renewed Petition under 37 CFR 1.47(a) is not a proper response to the Decision mailed 04 September 2002. Applicant states in the communication that, "[a]pplicant would like to clarify that Teruyuki Nakano is the correct name of the first inventor. A petition to correct inventor's name Yoshiyuki Nakano to Teruyuki Nakano was filed with (the) Japan Patent Office on February 8, 2001 and has been processed by the JPO . . . Applicant believes that this document should have been sent to the United States Patent and Trademark by (the) International Bureau." There is no record of a Notification of the Recording of a Change (Form PCT/IB/306) from the International Bureau located in the application file. Therefore, as stated in the Decision mailed 04 September 2002, since the name change is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

Because the failure to file the proper response does not appear to have been the result of an inadvertent omission (37 CFR 1.135(a)), applicant will not be accorded a new time period to correct the deficiencies in the response.

CONCLUSION

A proper response, as discussed above, must be filed within the period for response set forth in the Decision mailed 04 September 2002 which is extendable up to a maximum of five months. As such, using the maximum period of extension available, applicant has until 04 April 2003 to file a proper response or the application will be held abandoned as to the United States.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

Jiawei Huang
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	
PCT No.: PCT/JP00/07229	:	
Int. Filing Date: 18 October 2000	:	DECISION ON PETITION
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	:	

This is in response to applicants' "Renewed Petition Under 37 CFR 1.182" filed 04 March 2003 which is being treated as a Renewed Petition under 37 CFR 1.47(a). No petition fee is required.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. The international application listed Yoshiyuki Nakano; Yasuhir Kosawa; and Hitoshi Tambo as applicant/inventors. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicants filed petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a decision dated 05 February 2002.

On 07 June 2002, applicants filed renewed petition under 37 CFR 1.47(a). The petition was dismissed in decision dated 04 September 2002 because the declaration was defective pursuant to 37 CFR 1.497.

On 24 September 2002, applicants filed the renewed petition under 37 CFR 1.47(a). The renewed petition under 37 CFR 1.47(a) was not a proper response to the Decision mailed 04 September 2002.

On 03 March 2003, applicant filed the present petition which was accompanied by: Statement of Teruyuki Nakano; Statement of Kunihiko Shiromura; Communication in Cases for Which No Other Form is Applicable (PCT/IB/354); and petition fee for a four-month extension of time ($725). The extension of time fee was charged to Deposit Account no. 50-0710.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The 04 September 2002 decision indicated that petitioner had satisfied items (1), (2) and (3) above.

As to item (4), the decision dated 04 September 2002 and 10 December 2002 indicated that the declaration filed 12 October 2001 was defective pursuant to 37 CFR 1.497. Specifically, the declaration had been executed by "Teruyuki" Nakano whereas the international application lists "Yoshiyuki" Nakano as the first inventor. In response to the Decision, applicants filed the present petition which included, inter alia: Statement of Teruyuki Nakano; Statement of Kunihiko Shiromura; and Communication in Cases for Which No Other Form is Applicable (PCT/IB/354). The Communication in Cases for Which No Other Form is Applicable (PCT/IB/354) states, "[t]he International Bureau will re-issue the front page of the pamphlet on 27 February 2003 due to error to the Applicant and Inventor's name. Under (72,75) replace "Nakano, Yoshiyuki" by "Nakano, Teruyuki" and "Kosawa Yasuhiro" by "Kozawa Yusuhiro." Therefore, the papers filed on 03 March 2003 have been reviewed and are accepted.

The declaration submitted on 12 October 2001 and executed by: Teruyuki Nakano and Yasuhiro Kozawa; and on behalf of nonsigning inventor, Hitoshi Tambo is accepted.

CONCLUSION

For the reasons discussed above, applicants Renewed Petition under 37 CFR 1.47(a) is **GRANTED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 18 October 2000 and a date of **12 October 2001** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed:

RPG
Paper No. 12/15/03

In re Application of Darby et al.
Serial No.: 09/856,412
Filed: August 28, 2001

DECISION ON PETITION
UNDER *37 CFR 1.48(b)*

For: LAUNDRY MACHINE

This is a decision on the PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED (37 C.F.R. § 1.48(b)) filed October 23, 2003 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Ian Campbell McGill, Lorraine Nevinson, Laurence Evan Smythe, and Samuel John Selwyn Taylor from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1746
Technology Center 1700

Raiford A. Blackstone Jr.
Trexler Bushnell Giangiorgi Blackstone & Marr
105 West Adams Street
Chicago, IL 60630

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410

PARKHURST & WENDEL
1421 Prince Street, Suite 210
Alexandria, Virginia 22314-2805

In re Application of:	:	
KOHASHI, Yasuo, et al.	:	
U.S. Application No.: 09/856,634	:	DECISION
PCT No.: PCT/JP99/06590	:	
International Filing Date: 25 November 1999	:	
Priority Date: 26 November 1998	:	
Attorney's Docket No.:HYAE:113	:	
For: IMAGE PROCESSING DEVICE	:	

This decision is issued in response to applicants' "Notification Of Prior Submission Of Original Executed Declaration" filed 23 June 2003 and resubmitted on 12 November 2003, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of an executed declaration on 29 June 2001. No petition fee is required.

BACKGROUND

On 25 November 1999, applicants filed international application PCT/JP99/06590 which claimed a priority date of 26 November 1998 and which designated the United States. On 02 June 2000, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 26 May 2001.

On 24 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 17 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 23 June 2003, applicants filed the "Notification Of Prior Submission Of Original Executed Declaration" considered herein (an additional copy of this submission was filed on 12 November 2003). The submission asserts that an executed declaration was filed on 29 June 2001; the present filing includes a copy of the declaration and a stamped return postcard which itemizes the declaration, identifies the present application, and bears a USPTO receipt stamp dated 29 June 2001.

DISCUSSION

Based on applicants' statements and the stamped return postcard, it is concluded that the declaration included with the present submission was filed on 29 June 2001. The Notification Of Missing Requirements mailed 17 June 2003, based as it was on applicants' purported failure to file an oath or declaration, is therefore appropriately vacated.

The declaration filed on 29 June 2001 is in compliance with the requirements of 37 CFR 1.497.

CONCLUSION

Applicants' petition is **GRANTED**. The declaration accompanying the present submission will be treated as having been filed on 29 June 2001.

The Notification Of Missing Requirements mailed 17 June 2003 is hereby **VACATED**.

The declaration filed by applicant on 29 June 2001 is accepted in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371(c) date is 29 June 2001.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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DEC 22 2003

Director's Office
Group 3700

Seed Intellectual Property Law Group
Suite 6300
701 Fifth Avenue
Seattle, WA 98104-7092

Paper No. 12

In re Application of
WOBBEN, ALOYS
Application No.: 09/856,654
Filed: August 27, 2001

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 7, 2003 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

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)
6660159	2003-12-09	09856672	2001-05-24	VDX5059USPCT1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-09-05
Name	Joseph F. Aceto	Registration Number	50701

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6660159
Issue Date: December 9,2003
Application No. 09856672
Filed: May 24,2001
Attorney Docket No. 1477-P01769

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 5,2009 ,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 September 5,2009 . 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.

22 SEP 2004

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#16

Biomeasure Incorporated
27 Maple Street
Milford, MA 01757

In re Application of	:	
Dong et al.	:	
Application No. 09/856,676	:	DECISION ON
PCT No.: PCT/US99/28929	:	
Int. Filing Date: 07 December 1999	:	PETITION UNDER
Priority Date: 07 December 1998	:	
Atty. Docket No.: 00537-187002	:	37 CFR 1.137(b)
For: GLP-1 Analogues	:	

This is in response to the "Petition To Withdraw Examiner's Holding Of Abandonment" filed on 26 January 2004.

BACKGROUND

This international application was filed on 07 December 1999, claimed an earliest priority date of 07 December 1998, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 15 June 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 June 2001. On 25 June 2001, applicants filed *inter alia* the basic national fee.

On 30 January 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an initial or substitute computer readable form (CRF) of the sequence listing and a statement that the contents of the paper or compact disk and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

On 25 November 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Counsel requests withdrawal of the holding of abandonment on the basis that a proper reply was filed on 01 April 2002. Inspection of the application file reveals that the original response filed on 01 April 2002 is present. As such, the holding of abandonment was improper. The Notification of Abandonment mailed on 25 November 2003 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including transferring the CRF from application number 09/206,833 to the present application. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **16 July 2001**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

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PHILADELPHIA, PA 19103-2307

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OFFICE OF PETITIONS

In re Application of	:	
David J. Vining et al	:	
Application No. 09/856,683	:	DECISION GRANTING PETITION
Filed: August 23, 2001	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 0101-P01789US1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 22, 2006, 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), filed on December 26, 2006. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 16, 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 will be retained in the Office of Petitions for appropriate action in due course on the petition under 37 CFR 1.182 to withdraw a previously-filed terminal disclaimer.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

In re Application of	:	
Vining et al.	:	DECISION ON PETITION
Application No. 09/856,683	:	
Filed: 23 August, 2001	:	
Atty Docket No. 0101-P01789US1	:	

This is a decision on the petition filed on 22 December, 2006, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed 25 February, 2005, should be withdrawn because it inadvertently references an incorrect U.S. Patent. A substitute terminal disclaimer is filed with the present petition. As the examiner has concurred, the requested relief can be favorably considered.

The petition fee of $400.00 has been receieved.

Receipt of the substitute terminal disclaimer filed with the present petition is acknowledged.

This application is being referred to Technology Center Art Unit 3737 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SEP 2 4 2001

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NIXON & VANDERHYE
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of :
BOULANGER *et al* :
U.S. Application No.: 09/856,710 :
PCT No.: PCT/FR98/02563 :
Int. Filing Date: 27 November 1998 :
Priority Date: 27 November 1997 : DECISION
Attorney Docket No.: 1721-30 :
For: MEANS FOR GENERATING OPTICAL :
RADIATIONS TUNEABLE AT LEAST :
IN FREQUENCY :

Applicants' "Request Under Rule 137(b) for Withdrawal of Unintentionally Abandoned Application" filed with the national stage papers on 25 May 2001 in the above-captioned application has been treated as a petition to revive pursuant to 37 CFR 1.137(b) and is hereby **GRANTED** as follows:

Applicants state that "the entire delay in filing the U.S. national phase request for examination from the due date for filing until the filing of a grantable petition pursuant to Rule 137(b) [*sic*] was unintentional" as required by 37 CFR 1.137(b)(3). The petition fee, basic national fee and additional claim fees have been paid. No terminal disclaimer is required. Thus, all requirements of 37 CFR 1.137(b) have been satisfied.

The processing fee of $130.00 for filing an English translation late pursuant to 37 CFR 1.492(f) has been charged to Deposit Account No. 14-1140 as authorized. The executed declaration submitted with the national stage papers on 25 May 2001 was illegible and is therefore not in compliance with 37 CFR 1.497.

Accordingly, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 (a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e).

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

17 AUG 2004

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of ASANO et al	:	
U.S. Application No.: 09/856,718	:	
PCT Application No.: PCT/JP99/06616	:	DECISION
Int. Filing Date: 26 November 1999	:	
Priority Date Claimed: 27 November 1998	:	
Attorney Docket No.: 0230-0161P	:	
For: LAK ACTIVITY POTENTIATOR...	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 28 January 2002.

BACKGROUND

On 26 November 1999, applicant filed international application PCT/JP99/06616, which claimed priority of an earlier Japan application filed 27 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 27 May 2001.

On 25 May 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 January 2002, applicant filed the present petition under 37 CFR 1.47(a) along with an executed declaration.

On 27 February 2002, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/909).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor Yutaka Tajima.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition fails to state whether the nonsigning inventor cannot be reached or refuses to sign. Furthermore, the petition does not provide any supporting evidence as detailed above.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/909) mailed 27 February 2002 is hereby VACATED.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

14 DEC 2004

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In re Application of ASANO et al	:	
U.S. Application No.: 09/856,718	:	
PCT Application No.: PCT/JP99/06616	:	DECISION
Int. Filing Date: 26 November 1999	:	
Priority Date Claimed: 27 November 1998	:	
Attorney Docket No.: 0230-0161P	:	
For: LAK ACTIVITY POTENTIATOR...	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 18 October 2004.

BACKGROUND

On 26 November 1999, applicant filed international application PCT/JP99/06616, which claimed priority of an earlier Japan application filed 27 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 27 May 2001.

On 25 May 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 January 2002, applicant filed the present petition under 37 CFR 1.47(a) along with an executed declaration.

On 27 February 2002, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 17 August 2004, this Office mailed a decision dismissing the 28 January 2002 petition and vacating the Notification of Acceptance of Application Under 35 U.S.C. 371.

On 18 October 2004, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. .When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The renewed petition states that joint inventor Yutaka Tajima refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Tajima for signature (see affidavit of Hiroko Ejiri). Furthermore, the petition sufficiently illustrates Tajima's refusal to cooperate. Specifically, Tajima made an express oral refusal to cooperate during a telephone conversation with Ejiri (see Ejiri's affidavit). Thus, it can be concluded with reasonable certainty that Tajima refuses to join in the application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 November 1999, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 28 January 2002.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

14 DEC 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

Yutaka Tajima
10-511, Yaemizo 3-chome
Saga-shi, Saga 849-0935
JAPAN

In re Application of ASANO et al
U.S. Application No.: 09/856,718
PCT Application No.: PCT/JP99/06616
Int. Filing Date: 26 November 1999
Priority Date Claimed: 27 November 1998
For: LAK ACTIVITY POTENTIATOR...

Dear Yutaka Tajima :

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

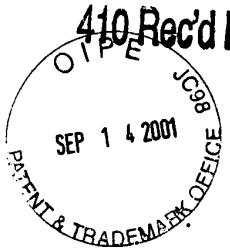
As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Attorney Docket No.: 0230-0161P

410 Rec'd PCT/PTO 14 SEP 2001



ASA-1003

#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

C. OKAMOTO et al

International Application Number PCT/JP99/06595

Serial No. 09/856,758

I.A. Filed: November 26, 1999

For: METHOD OF MOUNTING ELECTRONIC CIRCUIT CHIP

TRANSMITTAL OF LATE DECLARATION

Commissioner for Patents
Washington, D.C. 20231

September 14, 2001

Sir:

Responsive to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE mailed June 28, 2001, Applicants submit herewith the executed Declaration and Power of Attorney.

As required, a copy of the NOTIFICATION of June 28, 2001 is enclosed herewith.

Please charge any additional fees which may be required, or credit any overpayment to our Deposit Account No. 50-1417.

Respectfully submitted,

Daniel J. Stanger
Registration No. 32,846
Attorney for Applicant(s)

MATTINGLY, STANGER & MALUR
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314
(703) 684-1120
Date: September 14, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/856758	OKAMOTO	ASA-1003

INTERNATIONAL APPLICATION NO.
PCT/JP99/06595

I.A. FILING DATE	PRIORITY DATE
11/26/99	11/30/98

024956
MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

5071

DATE MAILED: 06/28/01

due 8-28-01/SJ

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☑ an Elected Office (37 CFR 1.495):

- ☑ U.S. Basic National Fee.
- ☑ Copy of the international application.
- ☐ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments.
- ☑ Priority Document.
- ☐ Indication of Small Entity Status.
- ☑ Translation of the international application into English.
- ☐ Translation of Article 19 amendments into English.
- ☐ Other:
- ☐ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.

2. ☑ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee.
- ☐ Copy of the international application.

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☑ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☐ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes MUST be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875 ☐ PCT/DO/EO/920

Lamont Hunter, Paralegal
Telephone: 703 305-3686

FORM PCT/DO/EO/905 (March 2001)

RECEIVED
JUL 2 2001
MATTINGLY, STANGER & MALUR

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

12/14/09

Patent No. :6731509
Inventor(s) :OKAMOTO et al.
Issued : 5/4/2004
Title : METHOD FOR MOUNTING ELECTRONIC CIRCUIT CHIP
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item [75] is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

DANIEL J. STANGER
BRUNDIDGE & STANGER, P.C.
1700 DIAGONAL ROAD, SUITE 330
ALEXANDRIA, VIRGINIA 22314

HR

OK TO ENTER: /J.L./

Docket No.: ASA-1003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,731,509 Confirmation No. 2349

Issue Date: May 4, 2004

Application No. 09/856,758

Inventor: C. OKAMOTO et al.

Title: METHOD OF MOUNTING ELECTRONIC CIRCUIT CHIP

Customer No.: 86636

REQUEST FOR RECONSIDERATION
RE: CERTIFICATE OF CORRECTION

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450 December 23, 2009

Sir:

The Applicants submitted a Request for Certificate of Correction in the above-identified patent on December 10, 2009. The Patent Office denied the request alleging that the patent "is printed in accordance with the record". A Request for Certificate of Correction to correct the same error in the continuation application, now U.S. Patent No. 7,549,208 was filed on September 15, 2009, and granted by the Patent Office.

The Declaration and Power of Attorney filed in both applications is identical and correct. Therefore, the Applicants submit that "the record" is incorrect and that the Request should also be granted in this application.

The Applicants assert that Inventor Asahiko ISOBE inadvertently signed his name over the "I" in Isobe and therefore it is not visible. However, the list of Inventors submitted concurrently with the application included the correct spelling of Mr. Isobe's name.

Therefore, please issue a Certificate of Correction showing the correct spelling of inventor Isobe's name based on the attached.

No fee is deemed necessary. However, the Commissioner is hereby authorized to charge additional payment due or to credit any overpayment, to Deposit Account no. 50-4888.

Respectfully submitted,

BRUNDIDGE & STANGER, P.C.

By /Daniel J. Stanger/
Daniel J. Stanger
Registration No. 32,846
(703) 684-1470

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/25/10

TO SPE OF : ART UNIT 2827 Zarabian Amir (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/856758 Patent No.: 6731509

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Jinhee Lee/ _____ 2841

SPE **Art Unit**

MAY 10 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

David R. Crichton
Ciba Specialty Chemicals Corporation
540 White Plains Road
P.O. Box 2005
Tarrytown, New York 10591-9005

In re Application of:
LEPPARD ET AL.
Application No.: 09/856,769
PCT No.: PCT/EP99/08968
Int. Filing Date: 20 November 1999
Attorney's Docket No.: A-21884/A/PCT
For: PROCESS FOR THE PREPARATION OF ACYLPHOSPHINES, ACYL OXIDES AND ACYL SULFIDES

DECISION ON
UNDER 37 CFR 1.47(a)

This decision is in response to applicant's petition under 37 C.F.R. 1.47(a), filed 14 January 2002, to accept the above-identified application without the signature of co-inventor Rene Kaeser.

BACKGROUND

On 20 November 1999, applicants filed international application PCT/EP99/08968, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was timely filed on 30 May 2000. Accordingly, the thirty-month period for meeting the requirements for entry into the national stage expired at midnight on 30 May 2001.

On 22 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic filing fee and a copy of the International application.

On 5 July 2001, the United States Designated/Elected Office (PTO) mailed applicants a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) was required as well as the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)). Applicants were given a TWO (2) MONTH period from the mail date of the Notification to properly respond, with extensions of time obtainable under 37 C.F.R. 1.136(a).

On 14 January 2002, applicants timely filed the instant petition under 37 CFR 1.47(a) which included a certificate of mailing dated 4 January 2002, a declaration under 37 CFR 1.63 which was unsigned only by co-inventor Rene Kaeser, a declaration in support of the instant petition asserted by Hans-Peter Wittlin, a petition for a four month extension of time for reply within the sixth month which ended at midnight of 7 January 2002, and the surcharge as required under 37 CFR 1.492(e), and the requisite fee for filing the instant petition. The fees for the extension of time and the surcharge have been charged to applicant's deposit account as requested. A petition fee of $130.00 will be charged to applicant's Deposit Account No. 03-1935 (37 CFR 1.17(h)).

DISCUSSION

Petition to File When An Inventor Refuses To Sign or Cannot Be Reached under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Applicants have satisfied items (1), (3), and (4) above.

Regarding item (2) above, MPEP 409.03(d) (August 2001) states in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Based upon the supporting declaration, Hans-Peter Wittlin was not present when the oral refusals were made. Therefore, the supporting documentation submitted with the petition contains statements by a party not present when an oral refusal was made. Accordingly, these statements will not be accepted. It is further unclear as to the content of the "application" sent to co-inventor Kaeser on 8 May 2001. MPEP 409.03(d) requires that the application papers include the specification, drawings, claims, and oath or declaration. It would appear as though co-inventor Kaeser received the declaration documents. However, the supporting documentations do not clearly indicate the content of the application to include the specification, drawings, and claims.

In that Item (2) has not been satisfied, the present petition under 37 CFR 1.47(a) may not properly be granted at this time.

It is noted that in paragraph "3" of the supporting declaration, it is stated that a "copy is enclosed of his employment contract." However, this copy was not present in the papers filed by applicants on 14 January 2002.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to timely submit the proper reply will result in ABANDONMENT. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner of Patents, Box PCT, Washington, D.C., 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Gregory Vidovich
PCT Legal Detailee
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

23 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joann Villamizar
540 White Plains Road
PO Box 2005
Tarrytown NY 10591-9005

In re Application of	:	DECISION ON RENEWED
LEPPARD et al.	:	
Application No.: 09/856,769	:	PETITION UNDER
PCT No.: PCT/EP99/08968	:	
Int. Filing Date: 20 November 1999	:	37 CFR 1.47(a)
Priority Date: 30 November 1998	:	
Attorney Docket No.: A-21884/A/PCT	:	
For: PROCESS FOR THE PREPARATION OF ACYLPHOSPHINES, ACYL OXIDES AND ACYL SULFIDES	:	

This is a decision on applicants' "RENEWED PETITION UNDER RULE 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 09 December 2002.

BACKGROUND

On 20 November 1999, applicants filed international application PCT/EP99/08968, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 May 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 24 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic filing fee and a copy of the international application.

On 05 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 14 January 2002, applicants submitted a petition under 37 CFR 1.47(a), which was

accompanied by, *inter alia*: a petition/fee for a four-month extension of time; the surcharge under 37 CFR 1.492(e); a pair of declarations of inventors which together were executed by all of the inventors except Rene Kaeser; a declaration of facts by Hans-Peter Wittlin; and the requisite petition fee.

On 10 May 2002, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that the declaration of Mr. Wittlin stated that there was an express oral refusal to sign the declaration but Mr. Wittlin was not present when this oral refusal was made. It was also noted that it was not clear whether the documents sent to the non-signing inventor included the specification, drawings, and claims.

On 09 December 2002, applicants submitted the instant "RENEWED PETITION UNDER RULE 1.47(a)", which was accompanied by, *inter alia*, a second declaration of facts by Hans-Peter Wittlin, a copy of a letter sent by Mr. Wittlin to Mr. Kaeser, and an English translation of the letter sent by Mr. Wittlin to Mr. Kaeser.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The decision mailed 10 May 2002 indicated that items (1), (3) and (4) had been met. The decision mailed 10 May 2002 also indicated item (2) had not been met regarding the non-signing joint inventor Mr. Kaeser. The steps enumerated in the further declaration of facts by Mr. Wittlin and the translation of the letter sent by Mr. Wittlin to Mr. Kaeser submitted 09 December 2002 are sufficient to establish that Mr. Kaeser refuses to execute the application and that Mr. Kaeser was presented with a copy of the application including the specification, drawings, and claims.

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded

to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **14 January 2002**.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

23 MAY 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

Rene Kaeser
Stadtgasse 2
1718 Rechthalten
Switzerland

In re Application of
LEPPARD et al.
Application No.: 09/856,769
PCT No.: PCT/EP99/08968
Int. Filing Date: 20 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: A-21884/A/PCT
For: PROCESS FOR THE PREPARATION OF ACYLPHOSPHINES, ACYL OXIDES AND ACYL SULFIDES

Dear Mr. Kaeser:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

Joann Villamizar
540 White Plains Road
PO Box 2005
Tarrytown NY 10591-9005

23 MAY 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

#8

Joann Villamizar
540 White Plains Road
PO Box 2005
Tarrytown NY 10591-9005

In re Application of	:	DECISION ON RENEWED
LEPPARD et al.	:	
Application No.: 09/856,769	:	PETITION UNDER
PCT No.: PCT/EP99/08968	:	
Int. Filing Date: 20 November 1999	:	37 CFR 1.47(a)
Priority Date: 30 November 1998	:	
Attorney Docket No.: A-21884/A/PCT	:	
For: PROCESS FOR THE PREPARATION OF ACYLPHOSPHINES, ACYL OXIDES AND ACYL SULFIDES	:	

This is a decision on applicants' "RENEWED PETITION UNDER RULE 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 09 December 2002.

BACKGROUND

On 20 November 1999, applicants filed international application PCT/EP99/08968, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 May 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 24 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic filing fee and a copy of the international application.

On 05 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 14 January 2002, applicants submitted a petition under 37 CFR 1.47(a), which was

accompanied by, *inter alia*: a petition/fee for a four-month extension of time; the surcharge under 37 CFR 1.492(e); a pair of declarations of inventors which together were executed by all of the inventors except Rene Kaeser; a declaration of facts by Hans-Peter Wittlin; and the requisite petition fee.

On 10 May 2002, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that the declaration of Mr. Wittlin stated that there was an express oral refusal to sign the declaration but Mr. Wittlin was not present when this oral refusal was made. It was also noted that it was not clear whether the documents sent to the non-signing inventor included the specification, drawings, and claims.

On 09 December 2002, applicants submitted the instant "RENEWED PETITION UNDER RULE 1.47(a)", which was accompanied by, *inter alia*, a second declaration of facts by Hans-Peter Wittlin, a copy of a letter sent by Mr. Wittlin to Mr. Kaeser, and an English translation of the letter sent by Mr. Wittlin to Mr. Kaeser.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The decision mailed 10 May 2002 indicated that items (1), (3) and (4) had been met. The decision mailed 10 May 2002 also indicated item (2) had not been met regarding the non-signing joint inventor Mr. Kaeser. The steps enumerated in the further declaration of facts by Mr. Wittlin and the translation of the letter sent by Mr. Wittlin to Mr. Kaeser submitted 09 December 2002 are sufficient to establish that Mr. Kaeser refuses to execute the application and that Mr. Kaeser was presented with a copy of the application including the specification, drawings, and claims.

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded

to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **14 January 2002**.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

23 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Rene Kaeser
Stadtgasse 2
1718 Rechthalten
Switzerland

In re Application of
LEPPARD et al.
Application No.: 09/856,769
PCT No.: PCT/EP99/08968
Int. Filing Date: 20 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: A-21884/A/PCT
For: PROCESS FOR THE PREPARATION OF ACYLPHOSPHINES, ACYL OXIDES AND ACYL SULFIDES

Dear Mr. Kaeser:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Daniel Stemmer
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Joann Villamizar
540 White Plains Road
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 10

Kenie Ho
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20005

In re Application of: Liang, et al.
Application No. 09/856,779
Attorney Docket No. 50435-055
Filed: October 3, 2001
For: METHOD FOR ENABLING COMPREHENSIVE PROFILING OF GARBAGE COLLECTED MEMORY SYSTEMS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on May 25, 2004.

The instant application became abandoned for failure to timely respond to the Office action mailed August 27, 2003. A notice of abandonment was mailed on April 16, 2004. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response; a petition request for a one month ($110) extension of time under 37 CFR §1.136(a); and a post card receipt identifying the contents of the response, which includes a USPTO receipt date of October 27, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED**. The Notice of Abandonment is hereby **WITHDRAWN**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response (copy filed May 25, 2004). The application will then be forwarded to the examiner for prompt action on the merits. Note, the fee for the 1-month extension of time has previously been charged against the indicated deposit account.

11/24/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-308-0885

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Hans-Dieter **BIPPUS**, et al.	:	
Application No. 09/856,788	:	DECISION GRANTING PETITION
Filed: August 8, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 70140	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 3, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

JUL 0 2 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

HENKEL CORPORATION LAW DEPARTMENT
2500 Renaissance Blvd., Suite 200
Gulph Mills, PA 19406

In re Application of
OTTO, Ralf *et al*
U.S. Application No.: 09/856,835
PCT No.: PCT/EP00/03758
Int. Filing Date: 26 April 2000
Priority Date: 05 May 1999
Attorney's Docket No.: H 4148 PCT/US
For: NOVEL SALICYL ALCOHOL DERIVATIVES

DECISION ON PETITION

The "Petition to Revive International Application" filed on 25 May 2001 in the above-captioned application is hereby **GRANTED** as follows:

The statement that "[a]pplicants' delay in filing the application under 35 U.S.C. § 371 beyond the January 5, 2001 date set by statute for entry into the U.S. national stage until today, which delay resulted in abandonment of this international application, was unintentional" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office. The petition fee of $1,240 and the basic national fee of $860.00 have been charged to Deposit Account No. 01-1250 as authorized. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) and a Notification of Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration submitted on was not in compliance with 37 CFR 1.497(a) and (b) because it was not executed and that a surcharge fee pursuant to 37 CFR 1.492(e) is also required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

06 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Walter Ottesen
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

In re Application of :
MUELLER et al. :
U.S. Application No. 09/856,912 :
PCT No.: PCT/DE00/03384 : DECISION ON PETITION
Int. Filing Date: 28 September 2000 :
Priority Date: 30 September 1999 :
Attorney Docket No.: R36127 :
For: METHOD FOR OPERATING A MIXED-POTENTIAL EXHAUST-GAS PROBE AND CIRCUIT ARRANGEMENTS FOR CARRYING OUT THE METHODS

This decision is in response to applicants' "Petition to Revive under 37 CFR 1.137(b) to Revive Application for Patent Abandoned Unintentionally" and "Petition under 37 CFR 1.497(d) to Correct Inventorship" filed 28 May 2002.

BACKGROUND

On 28 September 2000, applicants filed international application No. PCT/DE00/03384 which claimed a priority date of 30 September 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 April 2001. The international application named Bernd Mueller; Thomas Brinz; and Bernd Schumann as applicants/inventors. A Demand for international preliminary examination was filed not prior to 19 months from the priority date. Accordingly, the twenty-month period for paying the basic national fee expired at midnight on 30 May 2001.

On 30 May 2001, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and an unexecuted declaration.

On 11 July 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath or declaration in compliance with 37 CFR 1.66 or 1.68 was required. The notification set a two-month time limit in which to respond.

On 23 August2001, applicants filed a declaration and power of attorney executed by Bernd Mueller; Thomas Brinz; Bernd Schumann; and Bernhard Bloemer.

On 15 November 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath

or declaration in compliance with 37 CFR 1.66 or 1.68 was required.

On 30 November 2001, applicants filed "Response to Notification of Defective Response" which indicated that the declaration filed 23 August 2001 was in compliance with 37 CFR 1.66 or 37 CFR 1.68.

On 28 May 2002, applicants filed the present petition under 37 CFR 1.137(b) and 37 CFR 1.497(d).

On 04 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the fourth inventor (Bernhard Bloemer) was not listed on the international application.

DISCUSSION

The above-identified application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 11 July 2001, in that, the declaration was not in compliance with 37 CFR 1.497(a) and (b).

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

In order to comply with the proper reply requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.497(d). Under the present circumstances, in order for the reply requirement, item (1) above, to be satisfied, the submission under 37 CFR 1.497(d) to add inventor Bernhard Bloemer must be grantable.

In the instant case, the international application named Bernd Mueller; Thomas Brinz; and Bernd Schumann as applicants/inventors. Applicants request to add Bernhard Bloemer as applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1), (2) and (3).

In regard to item (4) above, the written consent of the assignee is executed by Dr. Gunnar Lochmahr, Patent Counsel for Robert Bosch, Gmbh, which avers that "the undersigned is empowered to act on behalf of the assingee. Therefore, applicants have satisfied item (4).

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.137(b) is **GRANTED**.

The submission under 37 CFR 1.497(d) is **GRANTED**.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 04 June 2002 is hereby withdrawn.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 28 September 2000 and a date of **23 August 2001** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE
P.O. BOX 55874
BOSTON MA 02205

In re Application of :
Kazuhiko Tsuda et al :
Application No. 09/856,926 : ON PETITION
Filed: May 29, 2001 :
Attorney Docket No. 55884/70904 :

This is a decision on the petition, filed August 10, 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 May 18, 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 2629 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

Date : March 23, 2009

Patent No. :7321353
Inventor(s) :Kazuhiko Tusda et al.
Issued :January 22, 2008
Title : DISPLAY DEVICE METHOD OF DRIVING SAME AND ELECTRONIC DEVICE
:MOUNTING SAME
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Any inquiry concerning this communication should be directed to Ms. A. Green at 703-308-9390 ext. 123.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9390 ext. 123

William J. Daley, Jr.
Edwards, Angel Palmer & Dodge LLP
P.O. Box 55874
Boston, Massachusetts 02205

/arg

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JAN 30 2002

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of
TEMSAMANI, Jamal, et al.
Application No.: 09/856,940
PCT No.: PCT/FR99/02939
Int. Filing Date: 26 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: 19904-013NATL
For: PHARMACEUTICAL COMPOSITION COMPRISING AN ANTI-CANCER AGENT AND AT LEAST A PEPTIDE

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Petition and Statement of Facts In Support of Filing On Behalf of Nonsigning Inventors (37 C.F.R. §1.47)," filed in the United States Patent and Trademark Office (USPTO) on 06 December 2001.

BACKGROUND

On 26 November 1999, applicants filed international application PCT/FR99/02939, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 June 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 30 May 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 06 December 2001, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a

three-month extension of time; and a combined declaration and power of attorney executed by inventors Jamal Temsamani and Michel Kaczorek.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) have been met. (1) The petition fee of $130 has been paid. (4) The declaration submitted is accepted as complying with 37 CFR 1.47(a).

Item (2) has not been met. Applicants are asserting that the nonsigning inventor cannot be reached after diligent effort. It is noted that had this petition been based on the refusal of inventors to sign the declaration, applicants would have had to demonstrate that *bona fide* attempt was made to present a copy of the application papers to the inventors. MPEP 409.03(d).

Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. It is noted that "copies of documentary evidence, such as a internet searches, certified return mail receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached" should be included. MPEP §409.03(d). Such documentary evidence has not been submitted. It is further noted that applicants state in their petition that "[c]opies of letters sent to inventor Annick Colin de Verdiere (in French and translated into English) requesting her signature on the Declaration form, and evidence of delivery issued from the French Mail Service are attached hereto." However, no such materials are in the file, nor are they listed on the transmittal letter that accompanied this petition.

The only statement included is the petition signed by Barry J. Marenberg. It states:

> Our French patent associate at Breese-Majerowicz has informed us that SYNT:EM has communicated that inventor Annick Colin de Verdiere is no longer employed at SYNT:EM and our French patent associate has not succeeded in locating or contacting inventor Annick Colin de Verdiere at her last known residence address. Accordingly, a diligent effort to reach inventor Annick Colin de Verdiere has been made in accordance with 37 C.F.R. 1.47(a).

However, "a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made." MPEP §409.03(d). The statement of Marenberg is general and is second hand. It recites what was told "us." "The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein." MPEP §409.03(d). In this case, it would appear that the statement of facts needs to

come from the French patent associate. Further, such a statement should outline what additional steps (*e.g.* telephone search, internet search, *etc.*) were taken to locate the missing inventor beyond merely attempting contact at the last known address.

Item (3) has not been met. Applicants list two home addresses and one business address as the last known addresses of Annick Colin de Verdiere. Applicant must state which residence is "the" last address.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

MAR 2 8 2002

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WASHINGTON, D.C. 20231
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Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of
TEMSAMANI, Jamal, et al.
Application No.: 09/856,940
PCT No.: PCT/FR99/02939
Int. Filing Date: 26 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: 19904-013NATL
For: PHARMACEUTICAL COMPOSITION COMPRISING AN ANTI-CANCER AGENT AND AT LEAST A PEPTIDE

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 22 February 2002.

BACKGROUND

On 26 November 1999, applicants filed international application PCT/FR99/02939, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 June 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 30 May 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 06 December 2001, applicants submitted the petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a three-month extension of time; and a combined declaration and power of attorney executed by inventors

Jamal Temsamani and Michel Kaczorek.

On 30 January 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 22 February 2002, applicants filed "Renewed Petition Under 37 CFR 1.47(a)," accompanied by, *inter alia*, a statement of facts and copies of postal receipts and letters with translations.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Applicants previously satisfied items (1) and (4).

Item (3) has now been satisfied. Applicants state the last known residence of the non-signing inventor, Annick Colin de Verdiere as 4 rue Rémi Belleau, 86 000 POITIERS, FRANCE.

Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. Applicants have provided a statement of facts from Pierre Breesé. The statement says "the undersigned has first-hand knowledge of the facts recited herein." However, when discussing the mailing of letters to Annick Colin de Verdiere, Mr. Breesé states "on more than one occasion *in accordance with my instructions*, a complete copy [of the] application papers and a Declaration form was [*sic.*] forwarded to Annick Colin de Verdiere for her review and signing of the Declaration form." [emphasis added]. "In accordance with my instructions" indicates that Mr. Breesé lacks first-hand knowledge of the facts in the statement. Further, the letters sent to Ms. Colin de Verdiere were signed by one "Alain Yvorra" and list the enclosures as "release for Canada, assignment and power of attorney for the US." The statement of the enclosures does not support Mr. Breesé's assertion that a full set of application papers was forwarded to Ms. Colin de Verdiere.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

11 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of
TEMSAMANI, Jamal, et al.
Application No.: 09/856,940
PCT No.: PCT/FR99/02939
Int. Filing Date: 26 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: 19904-013NATL
For: PHARMACEUTICAL COMPOSITION COMPRISING AN ANTI-CANCER AGENT AND AT LEAST A PEPTIDE

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 22 February 2002.

BACKGROUND

On 26 November 1999, applicants filed international application PCT/FR99/02939, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 June 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 30 May 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 06 December 2001, applicants submitted the petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a three-month extension of time; and a combined declaration and power of attorney executed by inventors Jamal Temsamani and Michel Kaczorek.

On 30 January 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 22 February 2002, applicants filed "Renewed Petition Under 37 CFR 1.47(a)," accompanied by, *inter alia*, a statement of facts and copies of postal receipts and letters with translations.

On 28 March 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 28 May 2002, applicants filed "Second Renewed Petition Under 37 CFR 1.47(a)," accompanied by, *inter alia*, a statement of facts, a copy of a postal receipt, printouts of internet searches and a letter to Annick Colin de Verdiere with translation.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Applicants previously satisfied items (1), (3) and (4).

It is unclear whether applicants are arguing that Ms. Colin de Verdiere could not be located after a diligent effort or that she has refused to execute the declaration after being supplied a complete copy of the application papers.

Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. The second renewed petition argues that inventor Colin de Verdiere could not be located, however, applicants do not indicate that the letter sent to her last known address was returned as undeliverable. Applicants have supplied neither the signature portion of the postal receipt nor a translation of the postal receipt. Additionally, in the 22 February 2002 petition, applicants argued that Ms. Colin de Verdiere had refused to sign the declaration. Applicants stated that the signature on the postal receipt was that of Annick Colin de Verdiere.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should

include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

14 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Ms. Annick Colin de Verdiere
4 rue Rémi Belleau
86 000 Poitiers
France

In re Application of
TEMSAMANI, Jamal, et al.
Application No.: 09/856,940
PCT No.: PCT/FR99/02939
Int. Filing Date: 26 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: 19904-013NATL
For: PHARMACEUTICAL COMPOSITION COMPRISING AN ANTI-CANCER AGENT AND AT LEAST A PEPTIDE

Dear Ms. Colin de Verdiere:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

14 NOV 2002

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WASHINGTON, D.C. 20231
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Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of
TEMSAMANI, Jamal, et al.
Application No.: 09/856,940
PCT No.: PCT/FR99/02939
Int. Filing Date: 26 November 1999
Priority Date: 30 November 1998
Attorney Docket No.: 19904-013NATL
For: PHARMACEUTICAL COMPOSITION COMPRISING AN ANTI-CANCER AGENT AND AT LEAST A PEPTIDE

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 08 August 2002.

BACKGROUND

On 26 November 1999, applicants filed international application PCT/FR99/02939, which claimed a priority date of 30 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 June 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2001.

On 30 May 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 06 December 2001, applicants submitted the petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a three-month extension of time; and a combined declaration and power of attorney executed by inventors Jamal Temsamani and Michel Kaczorek.

On 30 January 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 22 February 2002, applicants filed "Renewed Petition Under 37 CFR 1.47(a)," accompanied by, *inter alia*, a statement of facts and copies of postal receipts and letters with translations.

On 28 March 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing the petition without prejudice.

On 28 May 2002, applicants filed "Second Renewed Petition Under 37 CFR 1.47(a)," accompanied by, *inter alia*, a statement of facts, a copy of a postal receipt, printouts of internet searches and a letter to Annick Colin de Verdiere with translation.

On 11 June 2002, the Office mailed Decision on Petition Under 37 CFR 1.47(a) dismissing applicants' petition without prejudice.

On 08 August 2002, applicants submitted the instant renewed petition.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Applicants previously satisfied items (1), (3) and (4).

Item (2) has now been satisfied. Applicants have supplied evidence that Ms. Colin de Verdiere has refused to execute the declaration after presentation with a complete copy of the application papers.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371 date of **06 December 2001**.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM PA 19044

COPY MAILED

DEC 14 2005

OFFICE OF PETITIONS

In re Application of
Matthew G. Waight et al.
Application No. 09/857,010
Filed: May 29, 2001
Attorney Docket Number: MOTD2174
Title: UNIVERSAL MODULATOR

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on November 21, 2005.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 13, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on August 14, 2005. A Notice of Abandonment was mailed on November 4, 2005.

With the present petition, Petitioner has submitted the petition fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Office of Patent Publication - (703) 308-6789.

The Revocation of Power of Attorney and Appointment of new Power of Attorney has been entered and made of record.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

03 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D C 20231
www.uspto.gov

Patrick R. Scanlon
Pierce Atwood
One Monument Square
Portland, ME 04101

In re Application of	:	
GORAN AGREN	:	
Application No.: 09/857,103	:	DECISION
PCT No.: PCT/SE99/02266	:	
Int. Filing Date: 03 December 1999	:	
Priority Date: 03 December 1998	:	
Attorney Docket No.:20743-4568	:	
For: DEVICE IN PACKAGING	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371 regarding the Notification of Acceptance issued on 29 June 2001 and the Notification of Abandonment issued on 31 May 2002 in the above referenced application.

On 31 May 2001, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic filing fee, a copy of the international application as published and preliminary amendment. However, a declaration signed by the inventor, a requirement under 35 U.S.C. 371(c), was not submitted.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was not issued indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. Instead, on 29 June 2001, a Notification of Acceptance was erroneously mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). A 35 U.S.C. 371 date of 31 May 2001 was accorded to the application.

On 31 May 2002, a Notice of Abandonment was erroneously mailed to applicants indicating that applicants had failed to respond to a Notice to File Missing Parts allegedly mailed on 29 June 2001 and the application was considered abandoned. However, there is no indication in the application file that such Notice to File Missing Parts was issued.

CONCLUSION

For the reasons stated above, the Notification of Acceptance (Form PCT/DO/EO/903)

mailed on 29 June 2001 was issued erroneously and is hereby **VACATED.** The Notice of Abandonment mailed on 31 May 2002 was also issued erroneously and is hereby **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventor in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Leonard E. Smith
Legal Examiner
PCT Legal Office

CMK/LES:cmk

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

In re Application of
Susumu OTSUKI, et al.
Application No. 09/857,155
Filed: May 31, 2001
For: **5-DIRECTIONAL KEY OPERATION DEVICE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed October 15, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed January 5, 2004. A Notice of Abandonment was mailed on September 30, 2004.

Petitioner asserts that a proper response was timely filed on May 24, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on May 26, 2004. In addition, a review of the Revenue Accounting and Management (RAM) records show that a fee of $420 was applied toward two (2) months extension of time on May 26, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

In re Application of
Susumu OTSUKI, et al.
Application No. 09/857,155
Filed: May 31, 2001
For: **5-DIRECTIONAL KEY OPERATION DEVICE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed October 15, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed January 5, 2004. A Notice of Abandonment was mailed on September 30, 2004.

Petitioner asserts that a proper response was timely filed on May 24, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on May 26, 2004. In addition, a review of the Revenue Accounting and Management (RAM) records show that a fee of $420 was applied toward two (2) months extension of time on May 26, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

GREENBLUM & BERNSTEIN PLC
1941 ROLAND CLARK PLACE
RESTON VA 20191

COPY MAILED

JUL 16 2002

OFFICE OF PETITIONS

In re Application of :
Richard Kelso et al :
Application No. 09/857,204 : ON PETITION
Filed: September 18, 2001 :
Attorney Docket No. P21154 :

This is a decision on the petition under 37 CFR 1.182, filed December 10, 2001 and resubmitted on April 11, 2002, to change the order of inventorship in the above-identified application.[1]

The petition is **granted**.

Office records have been corrected to reflect the change in the order of inventorship. A corrected Filing Receipt with the change in the order of inventorship accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application file is being forwarded to Technology Center AU 1723 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

---

[1] The Office sincerely apologizes for the delay in replying to the instant petition and any inconvenience caused petitioner by this delay.

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

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

APR 15 2003

OFFICE OF PETITIONS

In re Application of :
Yuko Tachibana, et al. :
Application No. 09/857,209 : ON PETITION
Filed: June 22, 2001 :
Attorney Docket No. 209663USPCT :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 14, 2003, 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 26, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

The file is being forwarded to Technology Center AU 1775 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
(703) 305-9220

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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PATENT & TRADEMARK OFFICE

Paper No. 19

RECEIVED: 4/18/03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: #34 4/18/03
Type of Resp(s):
Due Date(s):

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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APR 15 2003

OFFICE OF PETITIONS

In re Application of
Yuko Tachibana, et al.
Application No. 09/857,209
Filed: June 22, 2001
Attorney Docket No. 209663USPCT

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 14, 2003, 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 26, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

The file is being forwarded to Technology Center AU 1775 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
(703) 305-9220

[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

JAN 04 2002

Daniel C. Abeles
ECKERT SEAMANS CHERIN & MELLOTT
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

In re Application of :
DOUGLAS, Donald, et al. :
PCT No.: PCT/CA99/01142 : DECISION ON PETITION
U.S. Application No.: 09/857,234 :
International Filing Date: 30 November 1999 :
Priority Date: 02 December 1998 :
Attorney's Docket No.: 021340-00008 :
For: METHOD AND APPARATUS FOR MULTIPLE :
STAGES OF MASS SPECTROMETRY :

This decision is issued in response to the "Response To A Notification Of A Defective Oath Or Declaration" filed 29 August 2001, which is treated herein as a petition under 37 CFR 1.181 to confirm the submission of a declaration in compliance with 37 CFR 1.497. No petition fee is required.

BACKGROUND

On 30 November 1999, applicants filed international application PCT/CA99/01142 which claimed a priority date of 02 December 1998 and which designated the United States. On 08 June 2000, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

On 30 May 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 02 June 2001.

On 01 June 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a declaration executed by two of the three named inventors (the nonsigning inventor was Jennifer Campbell).

On 25 June 2001, applicants filed a substitute declaration, identical to the previously filed declaration except that it had now been executed by all three inventors.

On 03 July 2001 (apparently before the substitute declaration filed 25 June 2001 had been matched to the file), the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) indicating that the declaration filed on

01 June 2001 was unacceptable under 35 U.S.C. 371(c)(4) because it: (1) was not executed by all the inventors and (2) did not identify the application to which it was directed. The Notification also noted that the declaration did not comply with 37 CFR 1.63 because it: (1) did not include the mailing address of each inventor; and (2) did not identify the foreign priority application. The Notifications required submission of a properly executed declaration in compliance with 37 CFR 1.497, and the surcharge for providing the oath or declaration later than thirty months from the priority date. Finally, the Notifications informed applicants that the failure to submit these materials within two months of the mail date of the Notifications would result in abandonment of the application.

On 26 July 2001, the DO/EO/US mailed a corrected Form PCT/DO/EO/905 and a corrected Form PCT/DO/EO/917. These forms were corrected to take into account the 25 June 2001 filing of the fully executed substitute declaration. The Notifications were identical to those mailed on 03 July 2001 except that the previously identified defect that the declaration was not executed by all the inventors was no longer listed.

On 29 August 2001, applicants filed the "Response To A Notification Of A Defective Oath Or Declaration" considered herein. This submission includes payment of the $130 surcharge for filing the fully executed declaration after the thirty month deadline, and it argues that the previously filed declarations are in compliance with 37 CFR 1.497.

DISCUSSION

Section 602 of the M.P.E.P. (subsection "Identification Of Application") sets for the specific "combinations of information" required for a declaration to adequately identify the specification to which it applies. These requirements differ for declarations submitted on the application filing date (as was the partially executed declaration filed by applicants on 01 June 2001) or declarations filed at a later time (such as the substitute declaration executed by Jennifer Campbell and filed on 25 June 2001).

With respect to the declaration filed with the application papers on 01 June 2001, the M.P.E.P. states:

> The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:
>
> (A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing.

Here, the declaration filed by applicants on 01 June 2001 referred to an attached specification, was filed with the materials initiating this national stage application (including a specification), and it lists all three inventors (although it is only executed by two of the three listed inventors, Bruce Collings and Donald J. Douglas). The declaration filed 01 June 2001 therefore adequately identified the specification to which it was directed. Accordingly, the original Forms PCT/DO/EO/905 and PCT/DO/EO/917 mailed 03 July 2001 were incorrect in stating that this declaration failed to adequately identify the specification to which it was directed. It is also noted that, as applicants assert in the present petition, the Application Data Sheet sets forth the required mailing addresses and priority information. Thus, the declaration need not include this information.

Based on the above, the declaration filed on 01 June 2001 is an acceptable declaration under 37 CFR 1.497 with respect to the inventors who executed it, that is, Bruce Collings and Donald J. Douglas. However, because the declaration was not executed by inventor Jennifer Campbell, the declaration does not satisfy the requirements of 35 U.S.C. 371(c)(4).

The 25 June 2001 declaration executed by the remaining inventor, Jennifer Campbell, was not submitted with the materials filed to initiate this national stage application on 01 June 2001; rather, the substitute declaration was submitted separately accompanied only by a cover letter entitled "Submission Of Substitute Declaration." Section 602 of the M.P.E.P. (subsection "Identification Of Application") states the following:

> The following combinations of information supplied in an oath or declaration filed after the filing date of the application are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:
>
> (A) application number (consisting of the series code and the serial number, e.g., 08/123,456);
>
> (B) serial number and filing date;
>
> © attorney docket number which was on the specification as filed;
>
> (D) title of the invention which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or
>
> (E) title of the invention which was on the specification as filed and accompanied by a cover letter accurately identifying the

> application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. ....

Here, the substitute declaration filed on 25 June 2001 did not include the application number, serial number, attorney docket number, or title of invention. The declaration therefore does not meet any of the "combinations of information" required to properly identify the specification to which the declaration was directed.

Based on the above, the corrected Forms PCT/DO/EO/905 and PCT/DO/EO/917 mailed 26 July 2001 were correct in asserting that the declaration filed 25 June 2001 did not adequately identify the specification to which it was directed and therefore cannot be accepted under 37 CFR 1.497. Applicants petition seeking acceptance of this declaration in satisfaction of 35 U.S.C. 371(c)(4) must therefore be dismissed.

CONCLUSION

The petition under 37 CFR 1.181 to confirm submission of a declaration in satisfaction of 35 U.S.C. 371(c)(4) and 37 CFR 1.497 is **DISMISSED** without prejudice.

Applicant has submitted the required $130 surcharge for filing the declaration later than thirty months after the priority date, and, as discussed above, has submitted an acceptable declaration from inventors Bruce Collings and Donald J. Douglas. However, the declaration filed on 25 June 2001 and executed by inventor Jennifer Campbell is unacceptable for failure to adequately identify the specification to which it was directed.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to file a proper response. Such response should include a declaration executed by inventor Jennifer Campbell which complies with the requirements of 37 CFR 1.497 and which properly identifies the specification to which it is directed. Failure to file a timely and proper response will result in abandonment.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

JC05 RECD PCT/PTO 0 1 APR 2002

#7

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
United States Patent and Trademark Office
INTERNATIONAL DIVISION - LEGAL STAFF
BOX PCT
Washington, DC 20231, on 3-4-02 Jan Laible

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	Entitled:
	)	
JENNIFER CAMPBELL et al.	)	METHOD AND APPARATUS
	)	FOR MULTIPLE STAGES OF
Serial No.: 09/857,234	)	MASS SPECTROMETRY
	)	
Filing Date: June 1, 2001	)	Atty Docket No: 021340-00008

RECEIVED
09 APR 2002
Legal Staff
International Division

Eckert Seamans Cherin & Mellott
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

INTERNATIONAL DIVISION, LEGAL STAFF
United States Patent and Trademark Office
BOX PCT
Washington, DC 20231

RESPONSE TO DECISION ON PETITION DATED JANUARY 4, 2002

Please accept the enclosed duly executed Declaration by inventor Jennifer Campbell in satisfaction of the requirements set forth in the Decision on Petition dated January 4, 2002. As the Decision on Petition also indicates, the required $130.00 surcharge for late filing of the Declaration has been paid. The enclosed Declaration complies with the requirements of 37 CFR 1.497, including properly identifying the specification to which it is directed.

Respectfully submitted,

Daniel C. Abeles

Daniel C. Abeles
Registration No. 25,822
Attorney for Applicant
412.566.1295

3/4/02
Date

24 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Daniel C. Abeles
ECKERT SEAMANS CHERIN & MELLOTT
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

In re Application of :
DOUGLAS, Donald, et al. :
PCT No.: PCT/CA99/01142 : DECISION
U.S. Application No.: 09/857,234 :
International Filing Date: 30 November 1999 :
Priority Date: 02 December 1998 :
Attorney's Docket No.: 021340-00008 :
For: METHOD AND APPARATUS FOR MULTIPLE STAGES OF MASS SPECTROMETRY :

In a decision mailed 04 January 2002, this Office held that applicants had not provided a fully executed declaration in compliance with 37 CFR 1.497 and in satisfaction of 35 U.S.C. 371(c)(4). Specifically, the decision stated that, while applicants had submitted an acceptable declaration from inventors Bruce Collings and Donald J. Douglas, the declaration filed on 25 June 2001 and executed by inventor Jennifer Campbell was unacceptable for failure to adequately identify the specification to which it was directed.

On 01 April 2002, applicants filed the "Response To Decision On Petition Dated January 4, 2002" considered herein (the Response included a certification under 37 CFR 1.8 that it had been mailed on 04 March 2002 and is therefore considered a timely response to the earlier decision). Accompanying the Response was a revised declaration executed by Jennifer Campbell which identifies the present application and otherwise complies with 37 CFR 1.497.

Applicants have now submitted a fully executed declaration in compliance with 37 CFR 1.497. Accordingly, as of 01 April 2002, applicants have satisfied the requirements of 35 U.S.C. 371(c)(4).

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 01 April 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-20-06

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/857308 Patent No.: 7071294

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

please check PCT Pub no / Pub Date

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Uffern

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE

1643

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JAN 30 2006

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

In re Application of	:
Elliott et al.	:
Serial No.: 09/857,325	: PETITION DECISION
Filed: February 14, 2002	:
Attorney Docket No.: 36697.7 (FKA 011115)	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 13, 2005, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed September 7, 2005, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

While the reasons set forth in this petition regarding expungement of the information might have been appropriate, the point is now moot as the IDS filed September 7, 2005 has recently been considered by the examiner. Therefore, the file entries for these documents will remain open and be publicly available.

Therefore, applicants' petition is DENIED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

NOV 2 7 200

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Alfred W. Zaher
Saul Ewing LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102

In re Application of	:	
Hanna	:	
Application No.: 09/857326	:	DECISION ON
PCT No.: PCT/NZ99/00209	:	
Int. Filing Date: 03 December 1999	:	PETITION UNDER
Priority Date: 03 December 1998	:	
Attorney Docket No.: 14728-00002	:	37 CFR 1.137(b)
For: Improvements Relating To Fibre	:	
Yarn And Rope Production	:	

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 31 July 2001.

BACKGROUND

This international application was filed on 03 December 1999 and claimed a priority date of 03 December 1998. The International Bureau transmitted a copy of the published international application to the United States Patent and Trademark Office on 08 June 2000. A Demand electing the United States was filed on 28 June 2000, which was prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 04 June 2001 (since 03 June 2001 was a Sunday).

On 01 June 2001, applicant filed a transmittal letter for entry into the national stage in the United States via Express Mail. The transmittal letter was not accompanied by the basic national fee.

On 25 July 2001, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned with respect to the U.S. for failure to timely pay the required basic national fee.

On 31 July 2001, applicants filed the instant petition under 37 CFR 1.137(b).

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. Requirements (2), (3) and (4) were previously satisfied.

Regarding requirement (1), the petition is accompanied by the required reply in the form of the basic national fee.

Regarding requirement (2), the petition is accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Missing Requirements 9Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

Richard Cole
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

BAKER & DANIELS
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Heinzl et al.	:	
Application No. 09/857,353	:	DECISION ON
Filed: September 5, 2001	:	PETITION
Title: TRANSPORT SYSTEM FOR SMALL COMPONENTS	:	

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed December 6, 2004 in the above-identified application.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 24, 2004. This Office action set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On August 30, 2004 (certificate of mailing August 25, 2004), applicants filed an amendment, made timely by an accompanying petition for extension within the first month. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed October 5, 2004). No proper reply having been filed and no further extensions of time obtained, the above-identified application became abandoned effective September 25, 2004. The present petition precedes the mailing of a Notice of Abandonment.

The instant petition includes the required reply in the form of a Request for Continued Examination (RCE) with a previously filed amendment as the submission under § 1.114 (and RCE fee); payment of the 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 this paragraph was unintentional." No terminal disclaimer is required on petition.

The application file is being forwarded to Technology Center AU 3651 for consideration by the examiner of both the RCE filed December 6, 2004 and the submission under § 1.114, an amendment previously filed August 30, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 0 7 2010

OFFICE OF PETITIONS

MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Patent No. 6,624,417
Issue Date: September 23, 2003
Application No. 09/857,376
Filed: June 4, 2001
Attorney Docket No. 50099-171

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed May 19, 2010.

The request is **DISMISSED**.

Applicant request a refund of the surcharge fee of $1,640 charged on September 2, 2008 (mailroom date July 16, 2008), and states that: "The Surcharge Fee of $1,640 should not have been charged because the Petition was granted and proof was given that the Maintenance fee was timely filed although the fee was not applied by the PTO."

However, the assertion "the Petition was granted and proof was given that the maintenance fee was timely filed" is inaccurate. A petition was indeed granted on September 22, 2008, but it was not the petition to establish that the maintenance fee was timely filed. Petitioner filed a petition under 37 CFR 1.377 on December 26, 2007, asserting that the maintenance fee was timely filed. The petition was dismissed as untimely on June 23, 2008.

Petitioner then filed a petition under 37 CFR 1.378(c) on September 22, 2008, which requires a $1,640 surcharge fee. The petition was granted. Therefore, the surcharge fee of $1,640 is proper.

In view of the above, the request for refund is dismissed.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SEP 07 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Alan C. Rose
OPPENHEIMER WOLFF & DONNELLY LLP
2029 Century Park East, Suite 3800
Los Angeles, CA 90067

In re Application of
IGLESIAS, Joseph *et al*
U.S. Application No.: 09/857,396
PCT No.: PCT/US97/15265
Int. Filing Date: 29 August 1997
Priority Date: 29 August 1996
Attorney Docket No.: 480032-213
For: COMFORTABLE ORTHOPAEDIC SUPPORT AND METHOD OF MAKING THE SAME

DECISION
ON PETITION
UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 31 May 2001 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3). The petition fee of $620.00, additional claim fees of $252.00, multiple dependent claim fees of $200.00 and the basic national fee of $345.00 were provided with the instant petition. These fees are insufficient for the number and type of claims present. Nevertheless, additional claim fees totaling $90.00, multiple dependent claim fees of $360.00, and a surcharge fee of $65.00 have been charged to Deposit Account No. 16-2230 as authorized. A processing fee of $130.00 for providing an English translation late was erroneously submitted. This fee will be credited back to counsel's Deposit Account. Accordingly, all requirements under 37 CFR 1.137(b) are now satisfied.

The declaration filed with the instant petition complies with 35 U.S.C. 371(c)(4) and 37 CFR 1.495. However, the declaration does not meet the requirements of 37 CFR 1.63 because the mailing addresses and residences of three of the four inventors was not listed. Therefore, a supplemental declaration in compliance with 37 CFR 1.63 will be required.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 29 August 1997, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **31 May 2001**. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Nicholas Gerard Byrne et al :
Application No. 09/857,456 :
Filed: September 24, 2001 :
Attorney Docket No. 061082-0005US :

This is a decision on the petition filed January 10, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 25, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 26, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070817

DATE : August 17, 2007

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction on Patent No.: 7092856

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:

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: Paul L. Rodriguez **Art Unit** 2123

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Paper No. 14

PILLSBURY WINTHROP
P.O. BOX 10500
MCLEAN, VA 22102

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Cesar Anatolio Garcia Vidrio et al :
Application No. 09/857,570 : ON PETITION
Filed: September 17, 2001 :
Attorney Docket No. P 281354 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 March 6, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 7, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technology Center AU 3673.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KEVIN E. JOYCE
P.O. BOX 1055
EDGEWATER, MD 21037-7750

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES 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 Nov-05

J. KENNETH JOUNG
E I DU PONT DE NEMOURS & COMPANY
LEGAL PATENTS
WILMINGTON DE 19898

COPY MAILED

NOV 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Sean J. Coughlan	:	DECISION ON PETITION TO
Application No. 09/857,613	:	WITHDRAW HOLDING OF
Filed: 4 June, 2001	:	ABANDONMENT
Attorney Docket No. BB-1289	:	

This is a decision on the petition filed on 20 October, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 9 May, 2005, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 8 February, 2005, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on 10 October, 2005.

Petitioner asserts that the issue fee was timely filed. In support, petitioner has supplied a Fee(s) Transmittal sheet bearing a Certificate of Mailing dated 6 May, 2005, signed by Carol Reeder. Petitioner additionally supplied, on 3 November, 2005, a statement by Carol Reeder, Legal Patent Records Center US Docketing Clerk, stating that she mailed the PTOL-85 form on 6 May, 2005.

As the Fee(s) Transmittal filed with the present petition bears a valid certificate of mailing dated 6 May, 2005, the showing of record is that a response was timely filed, and there is no

abandonment in fact. Any inconvenience caused to applicant is regretted.

The Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

The correspondence address has been changed as indicated on the Fee(s) Transmittal form.

The issue fee will be charged to counsel's deposit account, No. 04-1928, as authorized on the Fee(s) Transmittal form.

The application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

23 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

PERKINS COIE LLP
P.O BOX 2168
MENLO PARK, CA 94026

In re Application of	:	
Tatsuji Seki et al	:	
Application No.: 09/857,651	:	DECISION ON
PCT No.: PCT/US99/06881	:	
Int. Filing Date: 08 December 1999	:	PETITION
Priority Date: 08 December 1998	:	
Attorney's Docket No.: 9150-0009.10	:	UNDER 37 CFR 1.181
For: A METHOD FOR MANUFACTURING GLYCOPROTEINS HAVING HUMAN-TYPE GLYCOSYLATION	:	

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181(a)" filed on 08 July 2002, requesting the withdrawal of the Notice of Abandonment mailed on 31 May 2002 because the response to the "Notification of Missing Requirements" was timely.

BACKGROUND

On 07 June 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 28 June 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within one month from its 28 June 2001 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later that the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

On 31 May 2002, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" which indicated that applicant had failed to reply to the

"NOTIFICATION OF MISSING PARTS" mailed on 28 June 2001; accordingly, the application was abandoned.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 31 May 2002, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 27 August 2001, within the time period of response.

On 08 July 2002, applicant filed the present petition, which included a copy of the returned postcard. However, no copies of a preliminary amendment, and an executed combined declaration and power of attorney were submitted at such time.

On 04 October 2002, applicant faxed to this Office a true copy of the response mailed August 24, 200, which included, inter alia, a preliminary amendment, and an executed combined declaration and power of attorney.

DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard lists the items submitted on 27 August 2001 and it indicates, *inter alia*, an executed declaration and power of attorney was submitted on such date. Applicant states that the papers faxed on 04 October 2002 to accompany the present petition are true copies of the papers that were mailed on 24 August 2001 and referred to in the postcard receipt.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard receipt serves as *prima facie* evidence of receipt of the listed items on 27 August 2001 by the USPTO.

In view of the above, the applicant's response is considered timely. Accordingly, the instant application has been improperly abandoned.

CONCLUSION

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**.

The NOTIFICATION OF ABANDONMENT, mailed 31 May 2002 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **27 August 2001**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Affairs
Work (703) 308-2260
Fax (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/9/07

Paper No.: —

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/857651 Patent No: 6998267 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 1638
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,998,267

DATED: February 14, 2006

INVENTOR(S): Tatsuji Seki, Kazuhito Fujiyama

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 4, lines 14-15:

FIG 2. Schematic drawings of the cloning method for hGT. FIG 2 (A) shows positions of the hG 5Eco, hGT-7Spe, hGT-6Spe, and hGT-2Sal primers used to amplify template DNA for the hGT gene. FIG 2 (B) is a schematic drawing of the preparation of the hGT gene cDNA cloned into pBluescript II SK+.

09/857,651

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080731

DATE : August 18, 2008

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,998,267

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Anne Marie Grunberg **Art Unit** 1638

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
ONE STATE STREET
SUITE 800
BOSTON MA 02109

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Paul Berger, et al. :
Application No. 09/857,698 :
Filed: June 8, 2001 :
Attorney Docket No. C1043/7032 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure s to timely pay the issue fees and failure to submit formal drawings on or before February 15, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 15, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 16, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

The issue fee has been received. However, there is no indication that corrected formal drawings as required by the Notice of Allowability of November 15, 2006 have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division along with the renewed petition.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/857,698	11/09/2001	Paul Berger	C1043/7032

CONFIRMATION NO. 9935

Finnegan, Henderson, Farabow, Garrett & Dunner
1300 I Street, NW
Washington, DC 20005-3315

OC000000025317195

Date Mailed: 08/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/10/2005.

o 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).

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 Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
100 CAMBRIDGE STREET
SUITE 2101
BOSTON, MA 02114

COPY MAILED

JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Paul Berger, et al. :
Application No. 09/857,698 : DECISION ON PETITION
Filed: June 8, 2001 :
Attorney Docket No. C1043/7032 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before February 15, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed November 15, 2006. Accordingly, the date of abandonment of this application is February 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, and corrected formal drawings , (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Data Management for processing into a patent.

April M. Wise
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

1-24-07

Patent No. : 6,753,110
Ser. No. : 09/857,701
Inventor(s) : Yeong-Chang Yoo, et. al.
Issued : June 22, 2004
Title : CATHODE ACTIVE MATERIAL FOR LITHIUM ELECTROCHEMICAL CELLS
Docket No. : 11023-1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 102

National Research Council of Canada
Intellectual Property Services Office
EG 12 Bldg M 58
Montreal Road
Ottawa K1A OR6 CA Canada

ej

SPE: P. Paras Jr

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/07

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/852,719 Patent No.: 6989324

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Joe Woodard — SPE

1633 — Art Unit

DEC 0 5 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

#4

Elizabeth R. Plumer
Wolf, Greenfield & Sacks, PC
600 Atlantic Avenue
Boston, MA 02210

In re Application of :
ROBERTSON, John Russell, et al. :
Application No.: 09/857,739 :
PCT No.: PCT/GB99/04182 :
Int. Filing Date: 10 December 1999 : NOTIFICATION
Priority Date: 10 December 1998 :
Attorney Docket No.: B0192/7029 ERP :
For: CANCER DETECTION METHODS AND REAGENTS :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. §371.

BACKGROUND

On 10 December 1999, applicants filed international application PCT/GB99/04182, which claimed a priority date of 10 December 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 July 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 June 2001 (10 June 2001 was a Sunday).

On 08 June 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a preliminary amendment. The preliminary amendment amends the specification to claim priority by referencing 35 U.S.C. §120, 35 U.S.C. §365(c) and international application PCT/GB99/04182.

On 03 July 2001, the United States Designated/Elected Office mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that applicant failed to provide an oath or declaration in compliance with 1.497(a) and (b) and the surcharge for filing of the oath or declaration after thirty months.

On 27 September 2001, applicants submitted, *inter alia*, a declaration pursuant to 37 CFR 1.497 and the surcharge for late filing of the declaration.

DISCUSSION

Conflicting Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter (Form PTO-1390) filed on 08 June 2001 identified the application as "a filing under 35 U.S.C. 371." However, the preliminary amendment amended the first line of the specification to reference 35 U.S.C. §120, 35 U.S.C. §365(c) and the PCT application. Applicants' reference to the disclosure as claiming priority under §§ 120 and 365(c) is inconsistent with the transmittal letter filed 08 June 2001 and contradicts the request in the transmittal letter to file under 35 U.S.C. §371. See, e.g., 35 U.S.C. §365. The transmittal letter (Form-1390) used by applicants is to be used only with submissions under 35 U.S.C. §371. Since applicants have given conflicting instructions, the papers are considered filed under 35 U.S.C. §111(a).

Continuation Application

Applicants are entitled to claim benefit under 35 U.S.C. §120 and §365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 09/857,739) and the international application (PCT/GB99/04182) designating the United States were copending on 08 June 2001.

Applicants are reminded that in order to perfect the claim for priority under 35 U.S.C. §119, applicants must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

Fees

The surplus from the difference between the filing fee for 35 U.S.C. §371 and the filing

fee for 35 U.S.C. §111 and the fee for a one month extension will be credited to Deposit Account No. 23-2825.

CONCLUSION

For the above reasons, the "Notification of Missing Requirements Under 35 U.S.C. 371" on 03 July 2001 is hereby **VACATED**.

This application is accepted as an application filed under 35 U.S.C. §111(a) with a filing date of 08 June 2001.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the International Division for processing in accordance with this decision, that is for (1) removal of the papers communicated from the International Bureau to the United States Patent and Trademark Office concerning international application PCT/GB99/04182, (2) correction of information in PALM (computer database) and (3) correction of fees. Afterwards, the application will be forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. §111(a) with a filing date of **08 June 2001**.

Erin M. Pender
Attorney Advisor
PCT Legal Office

Telephone: 703-305-0455
Facsimile: 703-308-6459

Richard Cole
Legal Examiner
PCT Legal 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

JUN 18 2004

Paper No. 21

In re Application of
Mary Ann N. Caneba
Application No. 09/985,012
Filed: May 14, 2001
For: Customizing Pack
Carrier On Wheels

: DECISION ON PETITION

This is a decision on the petition filed by on May 7, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated April 23, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on November 7, 2003 in the form of a 37 CFR 1.114 Request for Continued Examination (RCE), as supplemented by an additional filing on December 2, 2003. Specifically, petitioner alleges that the RCE filed on November 7, 2003 was not accompanied by the correct fee for the RCE, but on December 2, 2003, petitioner remitted an amount of money sufficient to extend the period for response to the final Office action by one month, and to make up the correct RCE filing fee.

Petitioner has supported the above allegations by furnishing a copy of the RCE filed on November 7, 2003. The RCE has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated November 7, 2003 Petitioner has also supplied a copy of the filing on December 2, 2003, together with evidence in the form of a post card receipt showing that the extension of time and additional money due for the RCE filing fee were in fact filed on December 2, 2003.

Based upon this evidence, it is clear that the application is not abandoned. In addition, Office financial records show that the RCE filing fee was in fact applied, as were the extension of time fee and the additional money necessary for the filing of the RCE. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the RCE filed on December 2, 2003 and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Mary Ann N. Caneba
302 W. Jacker Ave.
Houghton, MI 49931

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 01 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Keith Kline
Pro-Techtor International Services
20775 Norada Court
Saratoga, CA 95070-3018

In re Application of
Yueh Wen Chao
Application No. 09/858,069
Filed: May 14, 2001
For: SAFETY PAYMENT AND AUTO EXCHANGE-GIVING SYSTEM FOR ELECTRONIC TRADING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on September 17, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing signed on April 5, 2004 by the attorney requesting withdrawal.

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/rwg: 11/22/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

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 :
Andrew C. Gilbert :
Application No. 09/858,091 : DECISION GRANTING PETITION
Filed: May 15, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-28 :

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 December 7, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found 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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

COPY MAILED
OCT 01 2008

In re Application of	:	
Andrew C. Gilbert	:	
Application No. 09/858,091	:	DECISION ON PETITION
Filed: May 15, 2001	:	TO WITHDRAW
Attorney Docket No. CF-028	:	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 **DISMISSED** as moot.

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 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DEAN P ALDERUCCI
CANTOR FITZGERALD, LLP
110 EAST 59TH STREET
(6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DRW 12-01

Paper No. 6

IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

COPY MAILED

DEC 17 2001

OFFICE OF PETITIONS

In re Application of :
Yates et al. :
Application No. 09/858,157 : DECISION
Filed: 14 May, 2001 : UNDER 37 CFR 1.28(c)
Attorney's Docket No. 156925-0003 :

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 5 October, 2001.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current fee due for a large entity is $1,008.00. On 2 October, 2001, $504.00 was paid. Therefore, a deficiency of **$504.00** is due. Petitioners has submitted a check in the amount of $487.00. Additionally, counsel's deposit account has been charged the difference of $17.00. However, petitioner are ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

Small entity status will no longer apply.

The file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703)308-6918.

DIWood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

11-8-07

Patent No. : 7,720,687 B2
Ser. No. : 09/858,188
Inventor(s) : Helen M. Doherty, et. al.
Issued : September 18, 2007
Title : REDUCED EMISSIONS TRANSPORTATION FUEL
Docket No. : 113692.34

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 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Matthew S. Bodenstein
Drinker Biddle & Reath
One Logan square
18th Cherry Streets
Philadelphia, PA 19103-6996

ej

UNITED STATES 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 1 8 2005

Technology Center 2100

Paper No. 9

WILLIAM Y. CONWELL
DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

In re Application of: Rhoads et al.
Application No.: 09/858,189
Filed: May 14, 2001
Attorney Docket No.: P0376
For: CONTENT IDENTIFIERS TRIGGERING CORRESPONDING RESPONSES

DECISION GRANTING PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8 (b) AND WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181

This decision is in response to the petition filed September 9, 2004 to withdraw the holding of abandonment under 37 CFR § 1.181 and 1.8(b). The petition is being treated as a request to accept papers as timely filed. The Notice of Abandonment was mailed August 25, 2004.

In support of the petition, the practitioner has provided a personal knowledge statement along with a copy of an amendment with a certificate of mailing, a copy of an information disclosure statement (IDS) and accompanying transmittal letter with a fee authorization for the IDS and a copy of a stamped postcard receipt with a stamped date of March 22, 2004. The USPTO postcard receipt that itemizes and properly identifies the items that are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped by the USPTO.

The evidence provided establishes that a timely response to the office action of December 19, 2003 was, in fact, received on March 22, 2004. The Office failed to match the complete response to the application file. A review of the application record shows the prior art submitted with the IDS was, in fact, matched to the application and the appropriate fee charged. Therefore, applicants do not need to resubmit the references. However, applicants are advised that the Office is no longer accepting papers which are double-sided and any such papers filed to date should be resubmitted as single-sided copies (37 CFR 1.52(a)(1)(iii) revised June 30, 2003 and effective July 30, 2003).

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error.

The application will be forwarded to the Technical Support Staff for processing of the response to the Office action that was filed March 22, 2004. No additional fee is required for the accompanying IDS since the fee was charged on March 22, 2004. Thereafter, the application will be forwarded to the examiner for consideration of applicants' amendment.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

HMJ: 1/4/05

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

VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY NV

COPY MAILED

MAY 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Winston W. Hodge :
Application No. 09/858,192 : DECISION ON PETITION
Filed: May 14, 2001 : TO WITHDRAW
Attorney Docket No. N/A : 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 25, 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 Michael A. Kerr, the sole attorney of record. A review of the file record indicates that practitioners associated with Customer No. 48008 do not have power of attorney in this patent application. Practitioners associated with Customer No. 48008 may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1,32(b). Applicant(s) is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Winston Hodge at the address indicated below.

There is an outstanding Office action mailed March 8, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Winston Hodge
Coax Corporation
24290 Avenida de Marcia
Yorba Linda, CA 92887

UNITED STATES 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
JAN 20 2004
PATENT & TRADEMARK OFFICE

DOCKETED
AUG 19 2003

PAPER NO.

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

COPY MAILED
AUG 15 2003
OFFICE OF PETITIONS

In re Application of
David Radunsky, et al.
Application No. 09/858,210
Filed: May 15, 2001
Attorney Docket No. 067062.0118

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 14, 2003, 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 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1723 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
(703) 305-9220

[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).

Filed or Issued: Herewith Attorney's Docket: 067062.0118

Title: **Method and System for Colloid Exchange Therapy**

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) & 1.27(c)) -- SMALL BUSINESS CONCERN

I hereby declare that I am an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern: Immunocept, L.L.C.
Address of Small Business Concern: 1800 10th Street, Suite 300
Plano, Texas 75074

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **Method and System for Colloid Exchange Therapy** by inventors David Radunsky, James R. Matson and Patrice A. Lee described in the specification filed herewith.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e):

NONE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or my maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: David Radunsky
Title of Person if other than owner: Chief Executive Officer
Address of Person Signing: Immunocept, L.L.C.
1800 10th Street, Suite 300
Plano, Texas 75074

Signature: _____

Date: 9 May 2001

UNITED STATES 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

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

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AUG 15 2003

OFFICE OF PETITIONS

In re Application of
David Radunsky, et al.
Application No. 09/858,210
Filed: May 15, 2001
Attorney Docket No. 067062.0118

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 14, 2003, 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 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1723 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
(703) 305-9220

[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
JAN 20 2004
PATENT & TRADEMARK OFFICE

DOCKETED
AUG 19 2003

PAPER NO.

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

COPY MAILED
AUG 15 2003
OFFICE OF PETITIONS

In re Application of
David Radunsky, et al.
Application No. 09/858,210
Filed: May 15, 2001
Attorney Docket No. 067062.0118

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 14, 2003, 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 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1723 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
(703) 305-9220

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BEST AVAILABLE COPY

Filed or Issued: Herewith

Attorney Docket: 067062.0118

Title: **Method and System for Colloid Exchange Therapy**

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) & 1.27(c)) – SMALL BUSINESS CONCERN

I hereby declare that I am an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern: Immunocept, L.L.C.
Address of Small Business Concern: 1800 10th Street, Suite 300
Plano, Texas 75074

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **Method and System for Colloid Exchange Therapy** by inventors David Radunsky, James R. Matson and Patrice A. Lee described in the specification filed herewith.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below, and no rights to the invention are held by any person, ther than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e):

NONE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or my maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made n information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: David Radunsky
Title of Person if other than owner: Chief Executive Officer
Address of Person Signing: Immunocept, L.L.C.
1800 10th Street, Suite 300
Plano, Texas 75074

Signature:

Date: 9 May 2001

BEST AVAILABLE COPY

09/858223

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-3-06

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction on Patent No.: 6961799

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
~~Certificates of Correction Branch - PK 3-922~~
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check Columns

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments:

The Change Requested are approved, There are no change in the scope of the invention

Examiner: Tinna Nguyen SPE Art Unit 2829

PTOL-1035 (Rev. 7-05)

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

MAY 21 2009

May 11, 2009

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80528-9599

In re Application of: :
Kamal Guler et al. :
Application No. 09/858,251 :
Filed: May 15, 2001 :
For: AUTOMATED DECISION SUPPORT SYSTEM FOR DESIGNING AUCTIONS

DECISION ON PETITION REGARDING NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF UNDER 37 CFR 1.181

This is in response to the petition filed on September 7, 2007 under 37 CFR 1.181 requesting that the August 13, 2007 Notification of Non-Compliant Appeal Brief be withdrawn. The delay in treating this petition is sincerely regretted.

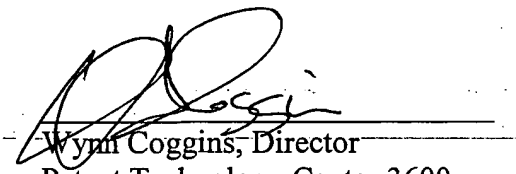
Applicant alleges that the Notification of Non-Compliant Appeal Brief mailed August 13, 2007 was issued in error because 1) only for *independent* claims need a concise explanation in the Summary of the Claimed Subject Matter be provided, and/or 2) a concise explanation in the Summary of the Claimed Subject Matter must be provided for dependent claims only if "means plus function" language is used which would invoke 112 sixth paragraph considerations. Applicant argues that the pertinent claims, being dependent and not "means plus function" meet neither of these requirements, such that they need not be included in a concise explanation in the Summary of the Claimed Subject Matter.

Applicant's arguments regarding requirements for the Summary of the Claimed Subject Matter are correct. However, review of the record reveals that, since the filing of the petition, an amended Appeal Brief including discussion of the *dependent* claims in the Summary of the Claimed Subject Matter Brief was filed by Applicant on February 8, 2008.

Therefore, since the requirements of the Notification of Non-Compliant Appeal Brief have been complied with, and the Appeal Brief has been forwarded to the Board of Patent Appeals and Interferences and docketed, the arguments of the earlier filed petition are moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to Charles R. Kyle, Supervisory Patent Examiner, at (571) 272-6746.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

crk/snm : 5/11/09

SM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Glenn M . Kubota
Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

MAILED

NOV 0 5 2004

Technology Center 2100

In re Application of:
Lacky Vasant SHAH, et al.
Application No. 09/858,260
Filed: May 15, 2001
For: CLIENT-SIDE PERFORMANCE OPTIMIZATION SYSTEM FOR STREAMED APPLICATIONS

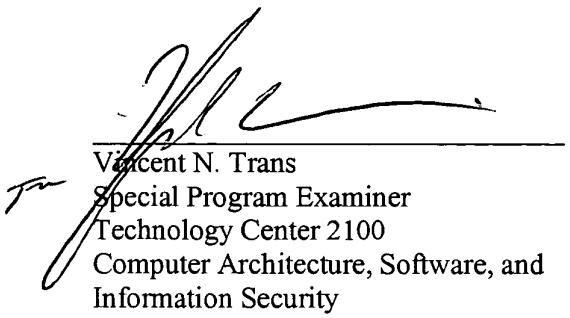
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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 is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: John R. King
Knobbe Martens Olson & Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

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

FEB 13 2006

Winstead Sechrest & Minick, P.C.
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270

In re application of
Sanjiv Bhatia
Application No. 09/858,262 : DECISION ON REQUEST
Filed: May 15, 2001 : FOR WITHDRAWAL OF
For: SYSTEMS AND METHODS FOR : ATTORNEY
ONLINE INVESTING

This is a decision on the request filed on December 29, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B) above.

As to condition B) the reason for the request does not correspond to any of the reasons set forth in 37 CFR 10.40 (b) or (c). It cannot be determined from the reason presented if the client knowingly and freely consents to the termination of employment.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/dcg: 2/10/06

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Paper No. 3

HAROLD E MEIER
BAKER BOTTS
SUITE 600
2001 ROSS AVENUE
DALLAS, TX 75201

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JAN 0 9 2002

OFFICE OF PETITIONS

In re Application of :
James E. Hicks et al :
Application No. 09/858,316 : NOTICE
Filed: May 15, 2001 :
Attorney Docket No. 064749.0134 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2631.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Pet. Dec.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: 5/19/05

dss
Paper Number

In re application of :
Gregory J.Kellogg et al. : DECISION ON
Serial No.09/858,318 : PETITION
Filed: May 15, 2001 :
For: MICROFLUIDICS DEVICES AND METHODS FOR
HIGH THROUGHPUT SCREENING :

This is a response to the PETITION TO RESCIND ABANDONMENT, filed February 03, 2005. The response asks that the abandonment, as set forth in the Notice of Abandonment of January 26, 2005 be withdrawn since the applicant did timely file a response on January 18, 2005.(copies of reply and Stamped Return Postcard Receipt are attached hereto).

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 USPTO application file reveals that applicant's response were properly filed on January 18, 2005 in view of the fact that the originally filed papers having a Patent and Trademark Office date stamp of January 18,2005 thereon and a properly completed Certificate of Mailing dated January 13, 2005 thereon have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers filed January 18, 2005.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kevin E.Noonan, Phd.
McDonnell, Boechen, Hulbert, & Berghoff
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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CHICAGO IL 60610

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APR 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,114,008	:	
JUNGCK et al.	:	DECISION ON REQUEST
Issue Date: September 26, 2006	:	FOR RECONSIDERATION OF
Application No. 09/858,323	:	PATENT TERM ADJUSTMENT
Filed: May 15, 2001	:	and NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10736/7	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed November 3, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 912 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 nine hundred twelve (912) days.

On September 26, 2006, the above-identified application matured into U.S. Patent No. 7,114,008. The instant request for reconsideration, filed November 3, 2006, was timely filed within two months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 792 days. Patentees dispute the reduction of 120 days associated with the filing of the Information Disclosure Statement ("IDS") on January 6, 2006. Patentees state that the IDS, filed September 29, 2003, was inadvertently lost by the USPTO, and therefore, was resubmitted on January 6, 2006, as evidenced by the

itemized, date-stamped postcard receipt. Patentees assert that the resubmission of the IDS does not warrant reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10).

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application are correct. The reduction of 120 days is not warranted.

In view thereof, the patent term adjustment indicated on the patent should be nine hundred twelve (912) days.

The Office will charge counsel's Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred 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 NINE HUNDRED TWELVE (912) days

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,114,008 B2

DATED : September 26, 2006

INVENTOR(S) : Jungek et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (792) days

Delete the phrase "by 792 days" and insert – by 912 days--

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Zahid Najam et al :
Application No. 09/858,324 : ON PETITION
Filed: May 15, 2001 :
Attorney Docket No. 10736/8 :

This is a decision on the petition, filed March 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 2187 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of	:
Najam, et al.	:
Application No. 09/858,324	:DECISION DISMISSING PETITIONS
Filed: May 15, 2001	:UNDER § 1.48(a) and § 1.183
Attorney Docket No. 10736/8	:
	:

This is a combined decision on the "PETITION UNDER 37 C.F.R. § 1.48(a)(1) AND AMENDMENT TO CORRECT INVENTORSHIP" and the "PETITION UNDER 37 C.F.R. § 1.183 TO WAIVE A REQUIREMENT UNDER 37 C.F.R. § 1.48", filed March 3, 2005, to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

The petition under 37 CFR 1.48(a) is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petitions Under 37 CFR 1.48(a) and 37 CFR 1.183" and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 15, 2001. A properly executed declaration identifying inventors Zahid Najam, Peder J. Jungck, Macduy T. Vu, and Andrew T. Nguyen was filed on August 29, 2001, in response to a Notice to File Missing Parts mailed July 20, 2001. On March 3, 2005, the instant request under was filed to amend the inventorship to add joint inventor Gregory Scott Triplett. Accompanying the petition was a statement from added inventor Triplett, stating that the inventorship error occurred without deceptive intention; and a declaration executed by Najam, Jungck, Vu, and Triplett.

37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the inventorship error occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), and (4) above. However, the petition does not include a proper written consent of assignee CloudShield Technologies, Inc. Petitioner's written consent is signed by Peder Jungck, who is identified as "Chief Technical Officer". Regarding 37 CFR 3.73(b) statements and who may sign on behalf of an assignee, the Manual of Patent Examining Procedure § 324 states:

> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.34(b)) from the inventors or the assignee to a patent practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

On renewed petition, petitioner must supply a 3.73(b) statement signed by an officer who has apparent authority to sign on behalf of the organization. Alternatively, the 3.73(b) statement can be signed by an individual who states that he or she has the authority to sign on behalf of the assignee.

With respect to petitioner's 37 CFR 1.183 petition, petitioner requests waiver of the requirement that all of the inventors sign the declaration on the basis that the Nguyen is "unavailable" to sign the declaration setting forth the correct inventive entity.

Under 37 CFR 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is not yet appropriate in this instance. Petitioner has not provided a showing of his inability to reach Nguyen, merely a statement (conclusion) that Nguyen is unavailable. On renewed petition, petitioner must set forth the steps taken to locate Nguyen. See MPEP 201.03.

Petitioner submitted $260 towards the petitions under 37 CFR 1.48 and 37 CFR 1.183. Effective December 8, 2005, the fee for a petition under 37 CFR 1.183 was increased from $130 to $400. Accordingly, the $270 difference has been charged to Deposit Account No. 23-1925, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:
Najam, et al.	:
Application No. 09/858,324	:DECISION GRANTING PETITIONS
Filed: May 15, 2001	:UNDER § 1.48(a) and § 1.183
Attorney Docket No. 10736/8	:

This is a combined decision on the "REQUEST FOR RECONSIDERATION OF PETITIONS UNDER 37 C.F.R. § 1.48(a) AND AMENDMENT TO CORRECT INVENTORSHIP" and the "PETITION UNDER 37 C.F.R. § 1.183 TO WAIVE A REQUIREMENT UNDER 37 C.F.R. § 1.48", filed July 8, 2005, to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

The petition under 37 CFR 1.48(a) is **GRANTED**.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on May 15, 2001. A properly executed declaration identifying inventors Zahid Najam, Peder J. Jungck, Macduy T. Vu, and Andrew T. Nguyen was filed on August 29, 2001, in response to a Notice to File Missing Parts mailed July 20, 2001. On March 3, 2005, a petition under 37 C.F.R. 1.48(a) was filed to amend the inventorship to add joint inventor Gregory Scott Triplett. Accompanying the petition was a statement from added inventor Triplett, stating that the inventorship error occurred without deceptive intention; and a declaration executed by Najam, Jungck, Vu, and Triplett.

However, the petition was dismissed in a decision mailed on June 3, 2005. Petitioner had not provided a written consent from the assignee. In addition, petitioner did not set forth the steps taken to have Nguyen execute the declaration.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. Petitioner has shown that Nguyen was presented with the application papers, but as of the date of the petition, has not executed the declaration.

Accordingly, the newly executed declaration filed on March 9, 2005 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(3) that all the inventors sign a reexecuted oath or declaration has not been satisfied.

The application file is being forwarded to Group Art Unit 2189 for processing of the RCE filed March 3, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Najam, et al. : LETTER REGARDING PTA
Application No. 09/858,324 :
Filed: May 15, 2001 :
Atty. Dkt. No.: 10736/8 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed October 3, 2005. The Office thanks appliants for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 679 days as suggested in the Notice of Allowance.

The request for review is **DISMISSED**.

The Determination of Patent Term Adjustment mailed November 16, 2004 indicated that at the time of allowance, the above-identified application was entitled to an adjustment of 679 days.

Applicants, however, indicate that the proposed adjustment of 679 days is in error. Applicants indicate that the adjustment should be reduced a total of 175 for applicants' delays.

A review of the application history as of the time of allowance reveals that the application is entitled to an adjustment 679 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 743 days, however, is properly reduced 55 days in accordance with 37 CFR 1.704(b) in connection with the amendment submitted September 30, 2004. The reduction began August 7, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended September 30, 2004, the date the amendment was submitted.

The adjustment of ~~661~~ 743 days is further reduced an additional nine days in connection with the supplemental response filed March 3, 2005. See, 37 CFR 1.704(c)(8). The reduction began February 23,

2005, the day after the date that the initial response (issue fee payment) was submitted, and ended March 3, 2005, the date the supplemental response was submitted.

As to applicants contention that an additional reduction should be accorded in connection with submission of a request for continued examination, applicants are advised that in accordance with 37 CFR 1.702(b)(1), subject to the provisions of 35 U.S.C. 154(b) and 37 CFR 1.702, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including any time consumed by continued examination of the application under 35 U.S.C. 132(b).

Accordingly, to the extent that at the time of issuance of the patent, the application is entitled to additional adjustment in accordance with 37 CFR 1.702(b), any time consumed as a result of continued examination will be excised from the overall adjustment accorded. Applicants are advised that the issue notification mailed approximately three weeks prior to issuance of the patent will set forth a final determination of overall adjustment.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 679 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

SPE: R. Braggdon

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/4/06

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/858,324 Patent No.: 7082502

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Reginald D. Braggdon — SPE

2189 — Art Unit

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496 OLIVE AVE
FREMONT, CA 94539

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APR 28 2010

OFFICE OF PETITIONS

In re Patent No. 6,924,058	:	
Issue Date: August 2, 2005	:	
Application No. 09/858,327	:	ON PETITION
Filed: May 15, 2001	:	
Attorney Docket No. 690089.401C5	:	

This is a decision in response to a petition filed March 1, 2010, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 3, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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.

Further, The Revocation and Power of Attorney filed on March 1, 2010 is hereby accepted and made of record. However, petitioner should also note that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent the "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) should be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/858,327	05/15/2001	Leroy J. Ohlsen	690089.401C5

CONFIRMATION NO. 3577

50297
TUE NGUYEN
496 OLIVE AVE
FREMONT, CA 94539

POA ACCEPTANCE LETTER

OC0000000041299832

Date Mailed: 04/26/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/01/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
09/858,327	05/15/2001	Leroy J. Ohlsen	690089.401C5

CONFIRMATION NO. 3577

THOMAS E. LOOP
P.O. BOX 21466
SEATTLE, WA 98111

POWER OF ATTORNEY NOTICE

OC000000041299819

Date Mailed: 04/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/01/2010.

- 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).

/atkelley/

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
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Alexandria, VA 22313-1450
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Paper No. 9

Chiahua George Yu
Law Offices of C. George Yu
1250 Oakmead Pkwy., Ste. 210
Sunnyvale, CA 94085

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of
Liu and Fung
Application No. 09/858,334
Filed: May 15, 2001
Attorney Docket No. WIW-009.01
For: SYSTEM AND METHGODS FOR ACCENT CLASSIFICATION AND ADAPTATION

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a) AND
: DISMISSAL OF PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.47(a) filed April 27, 2004. This is also a decision on the petition under 37 CFR 1.137(b) filed on April 27, 2004.

The petition under 37 CFR 1.47(a) is **dismissed.**

The petition under 37 CFR 1.137(b) is also **dismissed**.

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a) and Petition Under 37 CFR 1.137(b).

The above-identified application became abandoned on September 17, 2001, for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed July 16, 2001. The notice allowed an extendable period of two-month period for response. No response was received within the allowed period and the application became abandoned on September 17, 2001. A Notice of Abandonment was mailed on October 23, 2003.

TREATMENT UNDER 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) 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,

The instant petition lacks item (1) as set forth above.

As to item (1), the statement of the alleged unavailability of the non-signing inventor is not sufficient because it does not demonstrate a level of diligence that is comprehensive, yet reasonable. It appears that petitioner only sought the non-signing inventor at this last known place of employment. There is no indication that petitioner attempted to find a residential address for the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent, part that:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.
> 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.

In this case, a sufficient showing of diligence might include searches of the Internet for the non-signing inventor and of the national registry. Any renewed petition under 37 CFR 1.47(a) filed must be accompanied by a statement establishing that a diligent effort was made to locate inventor Fung and appropriate documentation corroborating said efforts.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is also dismissed.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition lacks item (1) above.

The Notice to File Missing Parts of Nonprovisional Application required a proper oath or declaration to be filed. Because the declaration filed is missing the signature of inventor Fung and the petition under 36 CFR 1.47(a) was not successful, a proper response to the last Office communication in accordance with 37 CFR 1.137(b) has not been filed. Any renewed 1.137(b) petition filed must be accompanied by a declaration signed by inventor Fung or a grantable petition under 37 CFR 1.47.

The Change of Correspondence Address and Docket Number, filed April 27, 2004, is noted, however, the requested change cannot be entered at this time as the request is made by an attorney that does not have proper power of attorney in this application. The declaration filed that appoints the firm of Foley Hoag, LLP is only signed by one of the two named inventors and the petition under 37 CFR 1.47 was not successful. Absent a petition to accept the power of attorney signed by only one of the two name inventors or a declaration executed by inventor Fung, the power of attorney will not be entered and the firm of Foley and Hoag, LLP will not be permitted to make any changes to the correspondence address. Further, the assignee that signed the Power of Attorney, NuSuara Technologies, SDN BHD has not yet been recognized by the Office as an assignee of this application. The assignee is still listed as Weniwen.com, Inc. in Office records. Accordingly, the Power of Attorney executed by the officer of NuSuara will not be entered until such time as NuSuara is established in Office records as an assignee for the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (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

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Liu and Fung
Application No.: 09/858,334
Filed: May 15, 2001
Attorney Docket No:NSO-009.01
For: SYSTEM AND METHOD FOR ACCENT CLASSIFICATION AND ADAPTATION

: DECISION ACCORDING
: RULE 47(a) STATUS
: AND DECISION ON
: PETITION UNDER
: 37 CFR 1.137(b)

This is in response to the renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b), filed February 4, 2005 (certificate of mailing dated February 2, 2005.)

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The renewed petition under 37 CFR 1.137(b) is **GRANTED**.

The above-cited application was filed on May 15, 2001, without a properly executed declaration. On July 16, 2001, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration and surcharge for the late filing of the same. No response was received within the allowable period and the application became abandoned on September 17, 2001. A Notice of Abandonment was mailed on October 23, 2003.

TREATMENT UNDER 37 CFR 1.47(a)

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 inventor Fung cannot be located to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

TREATMENT UNDER 37 CFR 1.137(b)

The subject application is accorded status under 37 CFR 1.47(a) relative to inventor Fung. A declaration bearing the signature of inventor Liu was filed on February 4, 2005. The requirements of the Notice to File Missing Parts of Nonprovisional Application have been satisfied. The petition under 37 CFR 1.137(b) is granted, accordingly.

The Change of Correspondence Address and Docket Number, filed April 27, 2004, is noted and made of record.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: William J. Schaff	: DECISION ON REQUEST FOR
Patent Number	: 7622322	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/858,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **65** 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. 5

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAILED

SEP 0 5 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
RACKETT, ALBERT E. :
Application No. 09/858,340 :
Filed: May 15, 2001 :
For: **METHOD AND SYSTEM FOR PREDICTIVE CONTROL FOR LIVE STREAMING VIDEO/AUDIO MEDIA** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 7, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 20350 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: WILLIAM L. PARADICE, III
PATENT ATTORNEY
425 CALIFORNIA STREET
SUITE 900
SAN FRANCISCO, CA 94104

UNITED STATES 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

Oppenheimer Wolff & Donnelly
P. O. Box 10356
Palo Alto, CA 94303

COPY MAILED

APR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Won Ho Jhe :
Application No. 09/858,350 : ON PETITION
Filed: May 15, 2001 :
Attorney Docket No. 18070/300101 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b) 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).

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 $55 extension of time submitted the present petition 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.

Additionally, there is no indication in USPTO records that 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 to the address of record unless instructed otherwise.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800 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

cc: Oppenheimer Wolff & Donnelly
45 South Seventh Street
Suite 3300
Minneapolis, MN 55402-1609

UNITED STATES 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

JiNan Glasgow
Glasgow Law Firm
PO Box 28539
Raleigh, NC 27611-8539

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of :
Khaled A. Al-Zoubi et al. :
Application No. 09/858,402 :
Filed: May 16, 2001 :
Attorney Docket No. 1266-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed September 16, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 27, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained on May 27, 2003. Accordingly, the application became abandoned on May 28, 2003.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1772 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Pet. Dec.

PTO/SB/83 (09-04)
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	09/858,402
Filing Date	May 16, 2001
First Named Inventor	Kahled A. Al-Zoubi
Art Unit	1772
Examiner Name	Catherine A. Simone
Attorney Docket Number	7268-001

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
/JMStone/
Jacqueline M. Stone, Director
Technology Center 1700
1/28/05

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 04678

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has dismissed Attorney.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Khaled A. Al-Zoubi				
Address	5121 Kaplan Drive				
City	Raleigh	State	North Carolina	Zip	27606
Country	United States of America				
Telephone	(919) 465-9997			Fax	(919) 465-9597
Signature	/Howard A. MacCord, Jr./				
Name	Howard A. MacCord, Jr.			Registration No.	28,639
Date	February 22, 2005			Telephone No.	(336) 273-4422

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Patent of Spurgat et al.	:	DECISION ON REQUEST
Patent No. 7,620,363	:	FOR RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 09/858,415	:	AND NOTICE OF INTENT TO
Filing Date: May 16, 2001	:	ISSUE CERTIFICATE OF
Attorney Docket No. 10587.0057-00000	:	CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred ninety-eight (798) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred ninety-eight (798) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 C.F.R. § 1.136.

The periods of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") are not in dispute. The period of A Delay is 842 days and the period of Applicant Delay is 437 days.

Petitioners assert delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 393 days. The application was filed on May 16, 2001, and a request for continued examination ("RCE") was filed on June 13, 2005. B Delay does not include the date on which the RCE is filed. Therefore, B Delay is a 392-day period from May 16, 2004 until June 12, 2005.

With respect to the period of adjustment for the Office taking in excess of three years to issue the patent, 35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under A Delay and B Delay to the extent such periods of delay are not overlapping. Petitioners' calculation of patent

term adjustment fails to address overlap between A Delay and B Delay. The Office has determined that the period of overlapping delay is 61 days.

In view of the prior discussion, the patent term is 737 days, which is the sum of 842 days of A Delay and 392 days of B Delay reduced by 61 days of overlapping delay and reduced by 437 days of applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 patent is extended or adjusted by **seven hundred thirty-six (736)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,620,363 B2
APPLICATION NO.	:	09/858,415
DATED	:	November 17, 2009
INVENTOR(S)	:	Jeffrey Jonathan Spurgat et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 405 days.

Delete the phrase "by 405 days" and insert -- by 736 days--

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ROCHESTER, NY 14644

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Ryan et al. :
Application No. 09/858,438 : ON PETITION
Filed: May 16, 2001 :
Attorney Docket No. A0477Q2 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 18, 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 April 19, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 20, 2004.

The petition fee of $1370.00 will be charged to petitioner's deposit account as authorized.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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dss

Mailed: 2-27-06

In re application of :
Dominique Gagnon et al. : DECISION ON
Serial No. 09/858,447 : PETITION
Filed: May 17, 2001 :
For: AUTOMATIC LIQUID ANALYSER AND
QUALITY CONTROLLER :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed November 03, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed October 07, 2005, be withdrawn since the applicant did not receive the Office letter mailed November 30, 2004.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, see MPEP 711.03(c). 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 November 30, 2004. The evidence provided includes a statement by the petitioner that the Office letter, mailed November 30, 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 was not received. Also provided is a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter originally mailed November 04, 2004 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Oglivy Renault LLP
1981 McGill College Avenue, Suite 1600
Montreal, Quebec H3A 2Y3
Canada

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

MAY - 1 2002

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MAY - 1 2002

OFFICE OF THE DIRECTOR
TC 3600

Ostrolink, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Paper No. 8

In re application of	:	**DECISION ON PETITION**
Michael Lax et al.	:	**TO MAKE SPECIAL**
Application No. 09/858,457	:	**(INFRINGEMENT)**
Filed: May 16, 2001	:	
For: CASE WITH INTERNAL LOCK	:	

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on May 16, 2001. The delay in treating this petition is sincerely regretted.

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(A), above. In view of this deficiency, the petition is **DISMISSED**.

The petition indicates that the applicant's believe that there is an infringing device on the market, based upon a competitor's marketing brochure that indicates that the product will be made available by the autumn of 2001. Having a belief that such a device is on the market is insufficient. Proposed product release dates are notoriously unreliable and cannot be the basis for concluding that there is an infringing device **on the market.**

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/snm: 5/2/02

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EDWARD M. ARONS
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1105

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Michael Lax et al :
Application No. 09/858,457 : ON PETITION
Filed: May 16, 2001 :
Attorney Docket No. P/2613-41

This is a decision on the petition, filed May 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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NEW YORK, NY 10020-1105

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OFFICE OF PETITIONS

In re Application of :
Michael Lax et al :
Application No. 09/858,457 : ON PETITION
Filed: May 16, 2001 :
Attorney Docket No. P/2613-41

This is a decision on the petition filed, March 20, 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 November 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1105

In re Application of	:	
Michael Lax et al	:	
Application No. 09/858,457	:	ON PETITION
Filed:May 16, 2001	:	
Attorney Docket No. P/2613-41	:	

This is a decision on the petition, filed July 25, 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 22, 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 3676 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 13

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Gautham Viswanadam, et al. :
Application No. 09/858,526 : ON PETITION
Filed: May 17, 2001 :
Attorney Docket No. IME2000-013/14 :

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 to the final Office action mailed September 11, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 12, 2002.

Since the present RCE was filed without a submission, the unentered amendment submitted on December 16, 2002, will be considered the submission required under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2800, Art Unit 2829 for processing the Request for Continued Examination under 37 CFR 1.114, filed on July 28, 2003.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 24 2003

Paper No. 10

In re Application of :
Lydia M. Faulkner : DECISION ON PETITION
Application No. 09/858,573 :
Filed: May 17, 2001 :
For: Apparatus and Method for
Math Calculation and Instruction

Your letter dated July 3, 2003 was received on July 7, 2003 and is being treated as a petition under Section 1.181 of Title 37 of the Code of Federal Regulations (37 CFR 1.181) to withdraw the examiner's holding that this application is abandoned. No fee is required for the petition.

The petition is granted.

Petitioner is of the belief that this application was not abandoned because petitioner's response to the Office letter dated March 8, 2002 was mailed on April 3, 2002. Petitioner was contacted the Office and was told that the response was late, but that petitioner could submit a declaration stating that the letter had been mailed in timely fashion. Petitioner did as instructed, but almost one year later, received a Notice of Abandonment.

Petitioner is advised that under 37 CFR 1.6, correspondence is considered to be filed in the Office on the date that it is received, not the date that it is mailed. It appears, in this instance, that correspondence mailed well in advance of the due date was not delivered to the Office until after the due date. The correspondence was, technically, untimely.

However, it appears that petitioner was not properly advised as to the proper procedure. The Office provides for extensions of time, which may generally be secured by paying a fee. Extensions can be secured retroactively, and the amount of the fee is governed by the amount of time for which the extension is sought. The record shows that petitioner was contacted not later than April 25, 2002. Petitioner could have, and should have, been advised to submit a request for a one month extension together with a $55.00 fee. Instead, petitioner was not so advised, and ultimately, the application became abandoned because under Section 133 of Title 35 of the United States Code (35 USC § 133), the maximum amount of time that can ever be given in which to respond to an Office letter is six months. It is observed that a Notice of Abandonment was mailed to petitioner almost one year after petitioner having been contacted by the Office and informed that the reply was not timely filed.

In view of these circumstances, it is deemed to be appropriate to consider the Office letter dated March 8, 2002 to have been properly responded to. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The letter mailed on March 8, 2002 will be considered to have been remailed on April 12, 2002, and the response filed on April 12, 2002 will therefore be considered to be timely. The application will then be forwarded to the examiner for action on the reply filed on April 12, 2002 which will be accepted as timely filed.

Petitioner is advised that future replies to Office correspondence should include a certificate of mailing under 37 CFR 1.8. By using the certificate (one copy is attached to this decision and

petitioner should make photocopies for future use), correspondence that includes the a completed and signed certificate will be considered to be filed on the date that it is mailed with sufficient postage as first class mail in a properly addressed envelope.

The inconvenience occasioned by the abandonment of this application is regretted.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Attachment

Lydia Faulkner
P.O. Box 222292
Chantilly, VA 22033

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)
6,626,169	2003-09-30	09/858,598	2001-05-17	P-3953-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	/Caleb Pollack/	Date (YYYY-MM-DD)	2008-04-23
Name	Caleb Pollack	Registration Number	37912

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6626169
Issue Date: September 30,2003
Application No. 09858598
Filed: May 17,2001
Attorney Docket No. P-3953-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 24,2008 . 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Platon N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

Mail Date: 04/21/2010

Applicant	: Tsutomu Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7672008	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/858,628	: OF WYETH
Filed	: 05/17/2001	:
		:

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

Intarcia Therapeutics, Inc.
ATTN: Barbara G. McClung
24650 Industrial Blvd
Hayward CA 94545

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FEB 23 2010

OFFICE OF PETITIONS

In re Patent No. 6,899,887 :
Issue Date: May 31, 2005 :
Application No. 09/858,632 : ON PETITION
Filed: May 17, 2001 :
Attorney Docket No. **ALE 055.12** :

This is a decision on the petition filed February 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Paper No. 13

ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE – SUITE 101
ELLICOTT CITY, MD 21043

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OFFICE OF PETITIONS

In re Application of :
Sheng Hsin Liao :
Application No. 09/858,649 : ON PETITION
Filed: May 17, 2001 :
Attorney Docket No. MR2349-638 :

This is a decision on the petition filed, January 4, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 16, 2002, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 17, 2002.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 4, 2006.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This matters is being referred to Technology Center AU 3654 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Adam Jude Ahne et al	:	
Application No. 09/858,694	:	DECISION GRANTING PETITION
Filed: May 16, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2000-0067	:	

This is a decision on the petition, filed July 22, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on June 29, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of November 28, 2002 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2624 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

FEB 1 2002

OFFICE OF PETITIONS

In re Application of :
Nikolai E. Bock :
Application No. 09/858,748 :
Filed: May 16, 2001 :
Attorney Docket No. 08305 / 097001 / 99-44 :

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 2800.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 8

Scott C. Harris
FISH & RICHARDSON, PC
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

MAILED
FEB 7 2003
OFFICE OF DIRECTOR
GROUP

In re Application of: :
Nikolai E. Bock :
Application No. 09/587,748 : DECISION ON REQUEST TO
Filed: May 16, 2001 : WITHDRAW FROM RECORD
Docket No. 08305/097001 :

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 31, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Scott C. Harris on behalf of himself and all the attorneys of record. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to, Tom D'Amico, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington, DC 20037-1526

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)
6702608	2004-03-09	09858774	2001-05-16	B01-0038

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Bernard A. Brennan Jr./	Date (YYYY-MM-DD)	2008-04-23
Name	Bernard Alvin Brennan Jr.		

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. 6702608
Issue Date: March 9,2004
Application No. 09858774
Filed: May 16,2001
Attorney Docket No. B01-0038

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2008 . 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 10

In re Application of CHOUDHERY, KHALID M.
Appl. No.: 09/858,779
Filed: May 15, 2001
For: VARIABLE CAMBER SUSPENSION SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.181

MAILED

JUN 2 7 2002

Office of the Director
Group 3600

This is a decision on the petition under 37 CFR 1.181 filed May 16, 2002 for supervisory review of the Examiner's Action.

The petition is DENIED.

A review of the file record reveals that a Final rejection was mailed on March 26, 2002 wherein the drawings were objected to as not showing "the plurality of locations for sensing (claims 4 and 16).

The Petitioner requests that the Examiner be required to withdraw the objection to the drawings under the presumption that 37 CFR 1.83(a) has not been applied properly and under the presumption that the Applicant has complied with 37 CFR 1.83(a).

Firstly, 37 CFR § 1.83 clearly states that the drawings "must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol..." With this, Applicant's specification discloses that "Multiple sensors 56...may also be used, and they can be mounted elsewhere." [0049] The drawings, particularly figures 7 and 8 show a single sensor 56. The shown single sensor does not fulfill the requirement of 37 CFR 1.83 as the single sensor does not provide for a proper understanding of the invention comprising a plurality of sensors. The arrangement utilizing a plurality of sensors is significantly different than the arrangement utilizing a single sensor.

Secondly, the Petitioner further states that "the Examiner's rationale would impose upon the Applicant the nonsensical burden of showing every possible location distinctly, and even showing every combination of possible locations." Such is not the case as the Examiner is simply requiring that every feature of the invention specified in the claims be shown. Specifically, the plurality of sensors must be shown. The burden is on the applicant to "furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented." 37 CFR 1.81.

Gerald Goldberg
Director, TC 3600
(703) 308-1134

#18
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APR 28 2003

MAILED

APR 28 2003

OFFICE OF THE DIRECTOR
TC 3600

INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

Paper No. 18

In re Application of
CHOUDHERY, KHALID M.
Appl. No.: 09/858,779
Filed: May 15, 2001
For: VARIABLE CAMBER SUSPENSION SYSTEM

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181 filed December 5, 2002 for supervisory review of the Examiner's Action.

The petition is **DENIED.**

On July 19, 2002, the applicant filed an Appeal Brief. In response to the Appeal Brief, the Examiner withdraw the finality of the Office Action mailed March 26, 2002 and presented a new non-final action on the merits, which was mailed October 22, 2002.

The applicant requests:

1) That the Examiner be required to comply with 37 CFR 1.193(a)(2), and withdraw the rejections raised in the new office action of 10/22/2002;
2) That the Examiner be required to comply with 37 CFR 1.193(a)(1), and either promptly now provide a proper answer to applicant's brief or affirmatively indicated that he is electing to not furnish any written statement in answer to applicant's brief;
3) That the Examiner be required to comply with 37 CFR 1.191(e), and transmit the file, including all briefs and answers, to the Board of Patent Appeals and Interferences and surrender jurisdiction over the application to the Board;
4) That appropriate measures be taken with regard to Examiner Eric C. Culbreth's actions here to maintain the reputation and standards of the Office; and
5) That applicant's petition fee be refunded.

With respect to 1- 3 above, the examiner's action of 10/22/02 was not an examiner's answer, but rather reopened prosecution after appeal. MPEP 1208.02 states:

> The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after applicant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under **37 CFR 1.97(c)** where no statement under 37 CFR **1.97**(e) was filed. See **MPEP § 706.07(a)**

Hence, the new grounds of rejection, which was made with the approval of the Supervisory Patent Examiner, is deemed proper. Accordingly, the rejections should not be withdrawn, nor should a response to the applicant's brief be forthcoming at this time. Accordingly, it was proper for the examiner not to forward the application to the Board of Appeals and Interferences.

Applicant is also directed to 37 CFR 1.193(b)(2), which states:

> where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, applicant must exercise one of the following two options to avoid abandonment of the application:
> (i) File a reply under **§ 1.111**, if the Office action is not final, or a reply under **§ 1.113**, if the Office action is final; or
> (ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (**§§ 1.130**, **1.131** or **1.132**) or other evidence are permitted.

With respect to 4 above, as the examiner's actions are within Office practice, and there is no evidence of any arbitrary or capricious behavior on the part of the Examiner, appropriate measures will not be taken.

With respect to the request that the applicant's petition fee be refunded, since refunds are handled by a different deciding entity, the applicant should provide a formal and separate request for refund that references this decision.

Robert Olszewski, Director
Technology Center 3600
Telephone: (703) 308-1134
Facsimile: (703) 305-2177

RR

OIPE JC13 JUN 24 2003 PATENT & TRADEMARK OFFICE

06-26-03 9200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Choudhery, Khalid M. Docket No: 60088.300103

Serial No: 09/858,779 Group Art Unit: 3616

Filing Date: May 15, 2001 Examiner: Culbreth, E.

For: **VARIABLE CAMBER SUSPENSION SYSTEM**

Attn: Office of the Director, Technology Group 2600
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

☒ Transmitted herewith is a Request for Reconsideration of Decision on Petition 37 C.F.R. 1.181 for this application.

☒ Applicant is
- ☒ a small entity.
- ☐ other than a small entity.

☐ Attached is a check in the sum of $_____

☐ Charge Account No. 08-3240 the sum of $_____.
A duplicate of this transmittal is attached.

☒ In the event that: a) no check to cover the filing fee is enclosed, b) any above-referenced check is inadvertently omitted or lost, or c) any enclosed check is in an amount less than or greater than the required fee, the Commissioner is authorized to charge any required fees, additional fees, or credit any overpayment to Deposit Account 08-3240. A duplicate of this authorization is enclosed for that purpose.

☒ Attached is a postcard for date-stamped return as confirmation of receipt of these materials.

Date: June 24, 2003

RAYMOND E. ROBERTS
Reg. No. 38,597

IPLO®
Intellectual Property Law Offices
1901 S. Bascom Avenue, Suite 660
Campbell, CA 95008
Telephone: (408) 558-9950
Facsimile: (408) 558-9960

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JUL 03 2003
GROUP 3600

Certificate of Mailing (37 CFR 1.10)

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231 as "Express Mail Post Office to Addressee."

June 24, 2003
(date)

Patricia Beilmann
(Signature of Patricia Beilmann)

EV326959138US
(Mailing Label No.)

Docket No.: 60088.300103

OIPE JC194 JUN 24 2003 PATENT & TRADEMARK OFFICE

H JO 7-18-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **CHOUDHERY, Khalid M.**
For (title): **VARIABLE CAMBER SUSPENSION SYSTEM**

Filing Date: **05/15/01**
Serial No: **09/858,779**
Examiner: **CULBRETH, E.**
Art Unit: **3616**

Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313

Attn.: Office of the Director, Technology Group 2600

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JUL 03 2003
GROUP 3600

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION
37 C.F.R. 1.181

Sir:

With respect to the Decision mailed 04/28/2003 (Paper No. 18), we respectfully request reconsideration. The Decision indicates that "*the examiner's action of 10/22/02 was not an examiner's answer, but rather reopened prosecution after appeal.*" Respectfully, we submit that this is error in at least these regards:

1) The examiner failed to follow the established procedure in MPEP 1208.02 for reopening prosecution after appeal.
2) The examiner identified what he was doing in the Office Action of 10/22/2002 (the "Action") as other than reopening prosecution after appeal.
3) The record indicates that the requirement that a supervisory primary examiner authorize reopening of prosecution after appeal was not met here.
4) The Decision here has harshly applied an absolute standard of procedural correctness

---

Certificate of Mailing (37 CFR 1.10)

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 as "Express Mail Post Office to Addressee."

JUNE 24, 2003
(date)

Patricia Beilmann
(Signature of PATRICIA BEILMANN)

EV326959138US
(Mailing Label No.)

to appellant's actions while forgiving multiple breaches of established and required procedure by the Office.

With respect to item 1, MPEP 1208.02 states the procedure an examiner should follow when reopening prosecution. It includes a form paragraph for use that states "... *PROSECUTION IS HEREBY REOPENED* ... [and] .... *To avoid abandonment of the application, the appellant must* ...." We submit that the use of capitalization and the advisement that abandonment is a consequence of failure to respond in the required manner are clear indications that the Office regards this situation as one that must be emphasized to applicants because it is both unusual and its repercussions can be particularly sever (as has proven to be the very case here). The form paragraph was not used and no informative or warning statements equivalent to those of the form paragraph were made here. Appellant thus was given no reasonable indication what the examiner was doing.

Furthermore, taken in context, the examiner should have particularly known that his action would not be recognized and that clear identification of its nature was needed. The Action came in response to a request by appellant for status, since more than two months had passed and the examiner had yet to provide an Answer to the Appeal Brief.

With respect to item 2, the Action includes statements by the examiner about what he was doing that are misleading. This almost certainly was not intended, but it nonetheless had such effect. In its item 1 the Action merely states that "*Finality of the last Office Action is withdrawn in view of newly cited art* ...." Clearly the examiner wanted to keep on arguing the case, yet the expression of this fails to state any proper basis for doing so at a post-appeal brief stage. The Action also fails to explain why the examiner is doing this well past the two-month period set by 37 CFR 1.193(a)(1) and MPEP 1208 in which to answer the Appeal Brief, and then apparently only in response to appellant's status request for such an Answer.

In its item 2 the Action then states "*Receipt of the Request for Status of Answer To An Appeal Brief filed 10/10/02 is acknowledged. The following action is in response to the Appeal Brief.*" Appellant took this at face value, as an assertion that the Action was the examiner's Answer to the Appeal Brief.

With respect to item 3, MPEP 1208.02 states that prosecution may be reopened "... *with approval from the supervisory patent examiner* ...." There is no clear evidence that this requirement was complied with here. The Action bears no stamp or signature by a supervisory

patent examiner (SPE). The Decision does state "... *the new grounds of rejection, which was made with the approval of the* [SPE] ..." but what this means is unclear. Is it a statement that the author of the Decision is aware that an SPE merely knew of and approved of the grounds for rejection, or that the author of the Decision is aware that an SPE knew of and approved of the reopening of prosecution? Also, since the Office does make considerable use of form paragraphs, and for particular reasons discussed next, we question if this language in the Decision might merely have been "forms language" and that no SPE actually approved of the examiner reopening prosecution. Since abandonment of an application is such a serious matter, if an SPE did approve of reopening prosecution here, we respectfully ask to be advised who that SPE was and when he or she granted such approval.

A key reason we question whether an SPE approved reopening the prosecution here is the putative "new grounds for rejection" asserted by the examiner in the Action. We submit that we have made a clear factual showing that those grounds are specious and improper by the three examples stated in appellant's petition.

With respect to item 4, if allowed to stand, the Decision here forgives every one of many procedural errors made by the Office in this matter, and harshly and absolutely holds the appellant to responsibility for having either psychic knowledge or extraordinary intelligence with which to determine what the Office was actually doing here, and then responding accordingly in the correct manner. The examiner did not provide an Answer to the Appeal Brief within the two-month period set for such by 37 CFR 1.193(a)(1) and MPEP 1208. The examiner also clearly did not follow the established procedures of the Office for reopening prosecution pursuant to MPEP 1208.02. And there is no record yet established that a SPE followed the required procedures of the Office for reopening prosecution.

In contrast, appellant acted as a reasonably prudent person in all respects. Upon filing its Appeal Brief and receiving no timely reply, appellant respectfully requested a status from the examiner. Upon receiving the Action in obvious reply to its request, appellant took that Action at its face value, and relied upon the apparent meaning of the examiner's statements. Recognizing from those statements that the examiner was clearly doing something wrong, and not appreciating that to be what the Decision now particularly indicates, appellant then sent its petition from the examiner's action on 11/25/2002. After nine actions by the Office, all by the very same examiner, appellant was confused and justifiably distressed that something else was

wrong and that the case was still not going before the Board. Appellant then waited patiently until mid April, 2003 to inquire of the Office by telephone, and in late April received the Decision.

Respectfully, by any reasonable sharing of fault for the errors that have now resulted in abandonment of this application, the Office should accept some responsibility. If the Office will do this for even one in the series of errors made here, we submit that this requires reversing the Decision and granting appellant's petition.

Fees ((37 C.F.R. 1.17(h) and 1.181(d)):

The appropriate fee was previously paid, with the petition dated 11/25/02 (listed in PAIRS as entered 12/05/02). In any event, the Commissioner is hereby also authorized to charge any additional fees which may be required or to credit any overpayment of fees in this matter to our deposit account number **08-3240**.

Timeliness (37 C.F.R. 1.181(f)):

Applicant-appellant urged that this petition is timely because it is being submitted within two months from the action being complained of, which was a Decision dated 04/28/2003.

Action requested (37 C.F.R. 1.181(b)):

Applicant-appellant respectfully requests that the Decision dated 04/28/2003 be reversed and that appellant's petition be granted

Intellectual Property Law Offices
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Telephone: 408.558.9950
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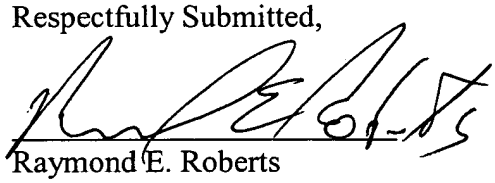
Respectfully Submitted,



Raymond E. Roberts
Reg. No.: 38,597

Customer No. 32112

32112
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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TC 3600

INTELLECTUAL PROPERTY LAW OFFICE
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CAMPBELL, CA 95008

Paper No. 21

In re Application
CHOUDHERY, KHALID M.
Appl. No.: 09/858,779
Filed: May 15, 2001
For: VARIABLE CAMBER SUSPENSION SYSTEM

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181 filed July 24, 2003 for reconsideration of the Decision on petition mailed April 28, 2003.

The petition is **GRANTED.**

A review of the file history reveals that on July 19, 2002, the applicant filed an Appeal Brief. In response to the Appeal Brief, the Examiner withdrew the finality of the Office Action mailed March 26, 2002 and presented a new non-final action on the merits, which was mailed October 22, 2002. In the Office Action Summary, a shortened statutory period for reply was set to expire 3 months from the mailing date of the action. On December 2, 2002 the applicant filed a petition for supervisory review of the examiner's October 22, 2002 Office action. On April 28, 2003 a Decision on the petition was mailed. The Decision stated that the petition filed December 5, 2002 was denied and clarified the October 22, 2002 Office action and further pointed out what options the applicant must exercise.

The applicant requests that the Decision dated April 28, 2003 be reversed and that the petition be granted.

The applicant submitted that the Decision was in error in at least the following regards:

1) The examiner failed to follow the established procedure in MPEP 1208.02 for reopening prosecution after appeal.
2) The examiner identified what he was doing in the Office Action of October 22, 2002 as other than reopening prosecution after appeal.

3) The record indicates that the requirement that a supervisory patent examiner authorize reopening of prosecution after appeal was not met here.
4) The Decision here has harshly applied an absolute standard of procedural correctness to appellant's actions while forgiving multiple breaches of established and required procedure by the Office.

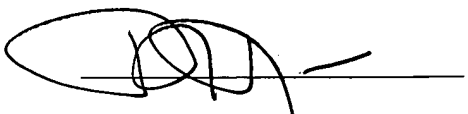
With respect to 1 above, although the examiner merely neglected to use the proper form paragraph for reopening prosecution after appeals, the examiner stated in the Office action the "Finality of the last Office Action is withdrawn." Further, the Office action Summary clearly set forth the shortened statutory period for reply as expiring 3 months from the mailing date of the action. It is noted that the MPEP does not require the use of form paragraphs.

With respect to 2 above, the examiner's statement in the Office action that "The following action is in response to the Appeal Brief" can be considered to be misleading. Accordingly, it appears that the October 22, 2002 Office action confused the applicant and lead them to believe that the action was an Answer to the Appeal Brief.

With respect to 3 above, in accordance with MPEP 1208, an appeal conference was held with the supervisory patent examiner and a primary examiner. Hence, the new grounds of rejection, which was made with the approval of the Supervisory Patent Examiner, was proper.

With respect to 4 above, proper procedures were followed by the Examiner and by the Office. Though, the Decision on the Petition was not mailed until April 28, 2003, which was several days after the present application went abandoned.

Due to the confusion raised by the October 22, 2002 Office action, that Office action is hereby **VACATED**. The non-final Office action originally mailed October 22, 2002 will be redated and remailed clearly stating that PROSECUTION IS REOPENED and advising what options the applicant must exercise. A shortened statutory period for reply will be set to expire 3 months from the mailing date of the action.



D. Glenn Dayoan, Acting Director
Technology Center 3600
Telephone: (703) 308-1134

pnd/snm: 8/20/03

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Jonathan Spurgat, et al.	:	
Application No. 09/858,810	:	DECISION ON PETITION
Filed: May 16, 2001	:	TO WITHDRAW
Attorney Docket No. 10587.0061-00000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 12, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Katten Muchin Zavis has been revoked by the assignee of the patent application on December 15, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Finnegan, Henderson, Farabow,**
Garrett & Dunner LLP
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OFFICE OF PETITIONS

In re Application of
Alhadef et al.
Application No. 09/858,814
Filed: May 16, 2001
Attorney Docket No.
1188-01

: ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 35 U.S.C. § 365(c) for the benefit of priority to prior-filed international application No. PCT/FR99/02810, filed November 16, 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)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed nonprovisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title. *See* 35 USC 120 and 37 CFR 1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 16, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed PCT 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 PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). 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 PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the PCT prior-filed 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed 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.

This matter is being referred to Technology Center Art Unit 2128 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 prior-filed international application No. PCT/FR99/02810, filed November 16, 1999.

Any inquiries concerning this decision may be directed to Attorney/Advisor Derek L. Woods at (571) 272-3232.

Charles A. Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of
Alhadef et al.
Application No. 09/858,814
Filed: May 16, 2001
Attorney Docket No.
1188-01

: ON PETITION

This is a decision on the duplicate petition under 37 CFR 1.78(a)(3), filed via facsimile May 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 35 U.S.C. § 365(c) for the benefit of priority to prior-filed international application No. PCT/FR99/02810, filed November 16, 1999.

The petition was **granted,** in a Decision mailed February 16, 2005 (copy enclosed). However, it appears that a copy of the corrected Filing Receipt was never mailed to Applicant. Enclosed herewith is a corrected Filing Receipt reflecting the priority claimed in the petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

ATTACHMENT: 1) Copy of February 16, 2005 Decision
2) Corrected Filing Receipt

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Paper No. 5 #5

JAY H. MAIOLI
COOPER & DUNHAM, LLP
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NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of
Ogino et al.
Application No. 09/858,843
Filed: May 16, 2001
Attorney Docket No. 7217/55134-Z

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed on August 13, 2001, in effect requesting that a Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed on June 11, 2001, be withdrawn as it pertains to omitted figures.[1]

The petition is **DISMISSED**.

The application was filed on May 16, 2001. However, on June 11, 2001, the Office of Initial Patent Examination (OIPE) mailed the Notice, stating that the application had been accorded a filing date of May 16, 2001, and advising Applicants that the drawing of Figure 13 described in the specification appeared to have been omitted. This Notice permits applicants to, within two months of the date of the Notice,[2] either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue,[3] or (2) promptly submit the omitted drawing(s) and accept the date of such submission as the application filing date.[4]

The present petition contends, under the first option, that the allegedly omitted Figure 13 was in fact filed with other application papers on May 16, 2001. In support, a copy of Applicants' postcard receipt is supplied indicating receipt by the USPTO on that day of, *inter alia*, "Copy of Specification, Abstract & Original Claims, Formal Drawings."

---

[1] A reply to the 6/11/01 Notice was due on 8/11/01, a Saturday. Thus, the present petition was timely filed on the following business day, 8/13/01, a Monday. See 37 CFR 1.7(a).

[2] 37 CFR 1.181(f).

[3] An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers, under this option, must file a petition (and the appropriate petition fee) with evidence of such deposit, generally by way of a date-stamped postcard receipt (see MPEP section 503 (Aug. 2001)).

[4] An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must: file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date.

This argument is not persuasive. A postcard receipt which **itemizes and properly identifies the papers being filed** would serve as *prima facie* evidence of receipt in the USPTO of all the **items listed thereon** on the date stamped thereon by the USPTO.[5] However, the copy of postcard receipt supplied in the present petition merely indicates "formal drawings," rather than specifying how many sheets of drawings as well as which drawings of figures, were filed on that day. Therefore, this postcard receipt cannot be relied upon for supporting the assertion that Figure 13 was filed on May 16, 2001.

Alternatively, the present petition argues that Figure 13 was not omitted because Figure 13 is identical to the Figure 13 in the prior application, No. 09/007,702, the entire disclosure of which was incorporated by reference at the time of filing.[6] Under this argument, Petitioners evidently are not requesting the August 13, 2001 filing date (the date the drawings containing Figures 13A-13F were supplied) under the second option provided by the June 11, 2001 Notice. Instead, the petition seeks to add the drawings of Figures 13A-13F to the present application on the basis that these drawings are not new matter. However, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter.[7]

MPEP 201.06(c) (Aug. 2001) (Incorporation by Reference) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter.[8] The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition**, provided the continuing application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis added)

If Applicants desire that Figures 13A-13F be added to the application, the appropriate procedure is by way of amendment requesting the entry of the new sheet of drawings.[9] Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner. Accordingly, the alternative argument in the present petition is inappropriate and likewise renders the petition subject to dismissal.

---

5 MPEP section 503 (Aug. 2001).

6 The present application is a divisional of application No. 09/007,702.

7 See MPEP 608.02(a) (Aug. 2001).

8 See Item 9, page 3 of transmittal form of the 5/16/01 application.

9 MPEP 201.06© (Aug. 2001), Incorporation by Reference (B. Application entitled to a filing date).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The Office also acknowledges receipt with the present petition of a signed declaration and the $130 surcharge for late filing of this declaration.

The application is being returned to OIPE for further processing with a filing date of May 16, 2001, including an indication in USPTO records that 18 sheets of drawings were present on filing.[10]

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[10] Figures 1-3 (1st 3 sheets), 4A-4H (4th sheet), 5 (5th sheet), 6-7 (6th sheet), 8A-8B (7th sheet), 8C-8D (8th sheet), 9 (9th sheet), 10-12 (10th sheet), 14 (11th sheet), 15A-15C (12th sheet), 16A-16D (13th sheet), 17 (14th sheet), 18A-18C (15th sheet), 19A-19E (16th sheet), 20-21 (17th sheet), 22 (18th and last sheet).

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OFFICE OF PETITIONS

In re Application of
USHER, Bruce et al.
Application No. 09/858,844
Filed: May 16, 2001
Attorney Docket No. **00-TC001**

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**
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OFFICE OF PETITIONS

In re Application of	:	
Scott Gatz, et al	:	
Application No. 09/858,855	:	DECISION ON PETITION
Filed: May 15, 2001	:	TO WITHDRAW
Attorney Docket No. 017887-005610US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The petition is **NOT APPROVED.**

A review of the file record indicates that the power of attorney to Philip H. Alber, along with all of the other attorneys associated with customer no. 20350, 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 be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 3621.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

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