20 SEP 2002

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WASHINGTON, D.C. 20231
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#5

SCHWEITZER CORNMAN
GROSS & BONDELL LLP
292 Madison Avenue, 19th Floor
New York, NY 10017

In re Application of	:	
Mark Moebus	:	DECISION ON
Application No.: 09/890,511	:	
PCT No.: PCT/EP00/01359	:	PETITION
Int. Filing Date: 18 February 2000	:	
Priority Date: 27 December 1999	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 0412-101P	:	
For: PANEL WITH SLIP-ON PROFILE	:	

This decision is responsive to applicants' "Petition to Withdraw Holding of Abandonment" filed 02 July 2002, which is being treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment mailed 29 May 2002, be withdrawn because the Notification of Missing Requirements was never received.

BACKGROUND

On 18 February 2000, applicants filed international application PCT/EP00/01359, which claimed priority of an earlier European application filed 27 December 1999. A copy of the international application was transmitted on 05 July 2001 to the USPTO from the International Bureau. No DEMAND appears to have been filed for this application. Accordingly, the twenty (20) month time period for paying the basic national fee in the United States of America expired at midnight on 27 August 2001.

On 31 July 2001, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration of the inventors accompanied the transmittal letter.

On 14 September 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 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two months from its 14 September 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.

On 29 May 2002, a Notification of Abandonment was mailed to applicant's representative. It stated that the applicant has failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905), mailed on 14 September 2001 within the time period set therein.

On 02 July 2002, applicants filed the instant petition.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that "the showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. **A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement.**"

A review of the petition reveals that petitioner has not compiled with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Petitioner's statements on page 1, paragraphs 2 and 4 of the petition "No further communication in this matter was received by the applicant's attorneys prior to the receipt on June 11, 2002 of a "Notification of Abandonment" mailed May 29, 2002 ... no Notification of Missing Requirements was ever received, nor was a deadline for submitting the required items entered in our call-up system for 11/14/2001, as would have been expected if the Notification was actually received" by itself is insufficient to establish nonreceipt of "Notice of Missing Requirements" mailed on 14 September 2001 without any corroborating evidence , e.g., a log showing the mailed received during the time period where the nonreceipt Office action would have been entered had it been received or a tickler sheet for 14 November 2001. In other words, to establish a showing of nonreceived of the "Decision on Petition" would require, at a minimum, a copy of docket showing the replies docketed for a date of one month from the mail date of the nonreceived Office action.

Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

30 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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#7

SCHWEITZER CORNMAN
GROSS & BONDELL LLP
292 Madison Avenue, 19th Floor
New York, NY 10017

In re Application of	:	
Mark Moebus	:	DECISION ON
Application No.: 09/890,511	:	
PCT No.: PCT/EP00/01359	:	RENEWED PETITION
Int. Filing Date: 18 February 2000	:	
Priority Date: 27 December 1999	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 0412-101P	:	
For: PANEL WITH SLIP-ON PROFILE	:	

This decision is responsive to applicants' "Renewed Petition Under 37 CFR 1.181" filed 13 November 2002 and the "Supplement to Renewed Petition Under 37 CFR 1.181" faxed on 29 April 2003 requesting that the Notification of Abandonment mailed 29 May 2002, be withdrawn because the Notification of Missing Requirements was never received.

BACKGROUND

In a decision from this Office on 20 September 2002, the petition filed on 02 July 2002 was dismissed. The decision indicated that petitioner had not complied with the requirements set forth in section 711.03(c) because a copy of the docket showing the replies docketed for a date of one month from the mail date of the noreceived Office action had not been submitted.

On 13 November 2002 and 29 April 2003 petitioner submitted a renewed petition and a supplement to renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the renewed petition reveals that petitioner has not still complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed and a tickler sheet for 14 November 2001.

Petitioner has submitted docket entries for the month of September 2001, the time period in the which supposedly the non-received document would have been expected to arrive in petitioner's office and docketed, and petitioner indicates that only a single call-up date for 11-14-01 (the date to response to the Office action) was found for the month of September. However, since the date of mailing of the Office action was September 14, 2001, three days after

September 11, 2001 (the terrorist attacks on the World Trade Center) and since no planes were flying at that time it could have taken the Office action longer than the two weeks from September 14, 2001 to reach petitioner's Office. Therefore, petitioner must also submit the docket entries of October 1, 2001 until November 14, 2001 and include the call-up date for action for the date of November 14, 2001 (i.e., tickler sheet for November 14, 2001) in that time period in order to establish a showing of nonreceipt of the Office action from the USPTO.

Accordingly, petitioner has still not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application still remains **ABANDONED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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PCT Legal Office

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UNITED STATES PATENT and TRADEMARK OFFICE

#9

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16 JUN 2003

SCHWEITZER CORNMAN
GROSS & BONDELL LLP
292 Madison Avenue, 19th Floor
New York, NY 10017

In re Application of	:	
Mark Moebus	:	DECISION ON SECOND
Application No.: 09/890,511	:	
PCT No.: PCT/EP00/01359	:	RENEWED PETITION
Int. Filing Date: 18 February 2000	:	
Priority Date: 27 December 1999	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 0412-101P	:	
For: PANEL WITH SLIP-ON PROFILE	:	

This decision is responsive to applicants' "Renewed (Second) Petition Under 37 CFR 1.181- Second Supplement" faxed on 07 May 2003 requesting that the Notification of Abandonment mailed 29 May 2002, be withdrawn because the Notification of Missing Requirements was never received.

BACKGROUND

In a decision from this Office on 30 April 2003, the petition faxed on 29 April 2003 was dismissed. The decision indicated that petitioner had not complied with the requirements set forth in section 711.03(c) because neither a copy of the docket showing the replies docketed for a date of one month from the mail date of the non-received Office action nor the docket entries of October 1, 2001 until November 14, 2001 had been submitted.

On 07 May 2003 petitioner submitted a second renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the second renewed petition reveals that petitioner has now complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and a tickler sheet for 14 November 2001.

Petitioner has submitted docket entries for the three month period September 2001 through November 2001, as logged into their system, when the document in question would have been expected to have been received and entered in their system. Petitioner asserts that there is no transaction for a September 14, 2001 date with a call-up date of November 14, 2001 for this application in their system.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is appropriate.

DECISION

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

The NOTIFICATION OF ABANDONMENT, mailed 29 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 the remailing of the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) previously mailed on 14 September 2001, and setting a new two-month extendable period for reply to the communication.

Rafael Bacares
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Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Maik Moebus	:	
Application No. 09/890511	:	DECISION ON PETITION
Filed: 07/16/2003	:	
Atty Docket No. 3068-001P	:	

This is a decision on the petition filed on 9 March, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 October, 2006, for failure to timely reply to the non-final Office action mailed on 13 July, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 February, 2007.

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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)).

Petitioner has filed an amendment in response to the Office action.

The petition fee will be charged to counsel's deposit account as authorized in the petition.

This application is being referred to Technology Center Art Unit 3635 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

06 SEP 2002

#6

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Pennie & Edmonds LLP
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of:	:	
Salamone et al.	:	
Application No.: 09/890,536	:	DECISION
PCT No.: PCT/US00/02014	:	
Int. Filing Date: 28 January 2000	:	UNDER
Priority Date: 29 January 1999	:	
Atty. Docket No.: 00931800229999	:	37 CFR 1.47
For: Method And System For Dynamic Configuration Of Activators In A Client-Server...	:	

This is in response to the "Petition Under 37 CFR § 1.47(a)" filed on 15 April 2002.

BACKGROUND

This international application was filed on 28 January 2000, and claimed an earliest priority date of 29 January 1999. A Demand electing the United States was filed on 22 August 2000, which was prior to the elapse of 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired as of midnight on 29 July 2001.

On 28 July 2001, applicants filed the basic national fee accompanied by, *inter alia*, a Transmittal Letter.

On 15 October 2001, a Notification of Missing Requirements was transmitted to applicants, requiring the submission of an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Applicants filed the instant papers and surcharge under 37 CFR 1.492(e) on 15 April 2002.

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. Petitioner has satisfied requirements (1) and (3).

Regarding requirement (1), the petition authorizes the petition fee to be charged to counsel's Deposit Account No. 16-1150. Thus, requirement (1) has been satisfied.

Regarding requirement (2), the instant petition states that "IONA Technologies has made diligent efforts made to timely locate ALAN CLARKE, so that he could execute a Declaration as required. This effort has, however, been unsuccessful... The last address for ALAN CLARKE is as follows... however, this address is known to be incorrect since the last correspondence forwarded to this address was returned with the indication that there was no forwarding address." These statements are insufficient to establish within the meaning of 37 CFR 1.47(a) that Mr. Clarke "refuses to execute the application or cannot be reached after diligent effort." Specifically, petitioner has not clearly identified the date nor nature of the "last correspondence" forwarded to Mr. Clarke's last known address. Furthermore, petitioner has not specified whether the alleged "indication that there was no forwarding address" was an indication by the Irish postal service that there was no forwarding address for Mr. Clarke, as opposed to a statement by another entity or an indication not specifically pertinent to a forwarding address for Mr. Clarke. These defects are not cured by the "Affidavit" of Margaret O'Keefe, which merely states in conclusory fashion that "Attempts to contact Mr. Clarke from his last known address and telephone number have been unsuccessful" without illuminating the nature of the "attempts." Accordingly, requirement (2) has not been satisfied.

Regarding requirement (3), the "Response..." includes a statement of the last known address of non-signing joint inventor Alan Clarke.

Regarding requirement (4), the declaration is defective. Specifically, the declaration signed by Julie Salamone identifies a different residence, address and citizenship than the corresponding, incomplete information provided for her on the declaration signed by Kevin Sullivan. Meanwhile, the declaration signed by Ms. Salamone omits residence and address information for all of joint inventors Mr. Clarke, Mr. Kiely and Mr. Sullivan; also, along with the published international application, it identifies Mr. Clarke's Mr. Kiely's and Mr. Sullivan's citizenship as "United States" as opposed to "Ireland," as indicated on the other declarations of record. As such, it would be inappropriate to accept these declarations, and so requirement (4) has not been satisfied.

For the reasons discussed above, it not would be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

The $130.00 petition fee is being charged to counsel's Deposit Account No. 16-1150.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. 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 for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard Cole
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12 FEB 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pennie & Edmonds LLP
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of:	:	
Salamone et al.	:	
Application No.: 09/890,536	:	DECISION
PCT No.: PCT/US00/02014	:	
Int. Filing Date: 28 January 2000	:	UNDER
Priority Date: 29 January 1999	:	
Atty. Docket No.: 00931800229999	:	37 CFR 1.47
For: Method And System For Dynamic Configuration Of Activators In A Client-Server...	:	

This is in response to the "Renewed Petition Under 37 CFR § 1.47(a)" filed on 15 January 2003.

BACKGROUND

A decision was mailed on 06 September 2002, dismissing a petition under 37 CFR 1.47 filed on 15 April 2002. That petition was dismissed because petitioner had not adequately shown that non-signing joint inventor Alan Clarke "refuses to execute the application or cannot be reached after diligent effort" and because the declaration was found to be defective.

DISCUSSION

The instant petition is accompanied by a declaration executed by previously non-signing joint inventor Alan Clarke. Accordingly, the petition under 37 CFR 1.47(a) is not **MOOT**.

Upon review of the declarations of record, they are found to be in compliance with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The petition is **DISMISSED AS MOOT**, without prejudice..

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **15 January 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of
Julie Salamone et al.
Application No. 09/890,536
Filed: January 15, 2003
Attorney Docket No. EID-0076

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2009. Accordingly, the date of abandonment of this application is April 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Paper No. 9

TYCO TECHNOLOGY RESOURCES
SUITE 450
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WILMINGTON, DE 19808

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of :
Dirk Wagenaar et al :
Application No. 09/890,575 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. 9911174 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 3, 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 October 4, 2002.

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

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

The application file is being forwarded to Technology Center AU 2811.

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

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OFFICE OF PETITIONS

In re Application of
Lauer, et al :
Application No. 09/890,706 :
Filed: 3 August, 2001 : ON PETITION
Patent No. 6,836,978 :
Issued: 4 January, 2005 :
Attorney Docket No.: 22750/493 :

This is a decision on the petition (with fees) filed on 30 November, 2004, under 37 C.F.R. §1.183 (to waive the provisions of 37 C.F.R. §3.81 and correct the Assignee under 37 C.F.R. §1.323) to obtain a certificate of correction setting forth the assignee.

The Issue Fee transmittal was submitted with an error as to the assignee specified.

The petition(s) under 37 C.F.R. §1.183 (for waiver of §3.81) and §1.323 are **GRANTED**, and the fee for the Certificate of Correction is charged as authorized to Deposit Account 11-0600.

NOTE: Petitioner is cautioned to include both the patent number and serial number (as well as the issue and filing dates) on all papers submitted with regard to the instant patent.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction (of the form and substance submitted) with the petition and setting forth the assignee, consistent with the Assignment recorded at Reel/Frame 014978/0904 (19 February,

2004) as:

Elefanten GMBH
Hoffmannallee 41 - 51
47533 Kleve, Germany

in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of
Steven K. Yoshinaga
Application No. 09/890,729
Filed: August 3, 2001
Attorney Docket No. A-579B

ON PETITION

This is a decision in response to the petition, filed October 15, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed August 28, 2006. A Notice of Abandonment was mailed on March 26, 2007. In response, on October 15, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions 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 $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1644 for consideration of the amendment filed October 15, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3.25.05

Paper No.: _____

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6792442

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.

Should Terminal disclaimer be deleted

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, it should be deleted since there is no Terminal disclaimer in this application.

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Karen Chu
SPE

2193
Art Unit

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

approved to enter
06/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,792,442

DATED : September 14, 2004

INVENTOR(S) : Takahiro Kumura

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

On the face of the Patent:

Please delete "This patent is subject to a terminal disclaimer"

MAILING ADDRESS OF SENDER:
Michael J. Scheer
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 Avenue of the Americas
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New York, New York 10036-2714

PATENT NO. 6,792,442

No. of additional copies 1

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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#54

OSTROLENK FABER GERB & SOFFEN LLP
1180 Avenue of the Americas
New York, New York 10036-8403

In re Application of	:	
CHARLES, Mark David *et al*	:	
U.S. Application No.: 09/890,775	:	DECISION
PCT No.: PCT/GB00/00345	:	
Int. Filing Date: 04 February 2000	:	UNDER
Priority Date: 06 February 1999	:	
Attorney Docket No.: P/3610-16	:	37 CFR 1.47(a)
For: N^2-PHENYLAMIDINE DERIVATIVES	:	

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.47(a)" ("Pet.") submitted 14 February 2002.

BACKGROUND

On 06 August 2001, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, a check to pay the required basic fees, an unexecuted declaration, and authorization to charge Deposit Account No. 15-0700 for any additional fees which may be required.

On 17 September 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/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided.

On 14 February 2002, applicants submitted a "Response to Notification of Missing Requirements" which was accompanied by, *inter alia*, the instant petition; a three-month extension request and $920.00 extension fee; the $130.00 surcharge fee; a declaration signed by five of the seven co-inventors; the $130.00 petition fee; and a "Declaration of Shona Merigeault in Support of Petition Under 37 C.F.R. 1.47(a)" ("Merigeault Decl.").

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), the 37 CFR 1.47(b) applicants state that the last known address of the nonsigning co-inventor, Mark David Charles is:

Flat 18 b,
51-53 Kings Road
Brighton
BN1 1NA
England

Also, the last known address of the nonsigning co-inventor, Donald James Simpson is:

74 Abbots Road
Haverhill
Suffolk CB9 ODH
England

This information satisfies item (3).

Regarding item (4), applicants included a Declaration signed by five of the seven co-inventors. The nonsigning co-inventors' names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has also been satisfied.

However, applicants have not sufficiently met the requirements of item (2).

Applicants claim that Donald James Simpson "refuses to join in the application." Pet. ¶ 2. Ms. Merigeault states that "Mr. Simpson appears to have received the letter forwarding the formal papers for signature but has refused to execute the documents indicating to me that since Aventis terminated his employment, he sees no need to assist this company with administrative details." Merigeault Decl. ¶ 9. This explanation is insufficient. Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such

> evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In this case, applicants have not provided any documentary evidence required by the MPEP above such as a copy of the letter sent to Mr. Simpson. In addition, it is not clear if Mr. Simpson's conduct demonstrates a refusal. Applicants must investigate this matter further by attempting to contact Mr. Simpson and find out directly if he refuses to cooperate. The actions taken must be specified in a statement of facts signed by a person having firsthand knowledge of the details therein and submitted with the renewed petition.

Applicants also claim that co-inventor, Mark David Charles "cannot be located." Pet. ¶ 1. Ms. Merigeault succinctly states that "[t]he letter addressed to Mr. Charles has been returned by the Royal Mail in England with a stamp stating 'address unknown.' Aventis has been unable to locate a new address for Mr. Charles." Merigeault Decl. ¶ 7. This is insufficient to demonstrate that Mr. Charles cannot be located. Applicants' burden in proving that an inventor cannot be located is also explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The statements by Ms. Merigeault do not sufficiently elaborate on the procedures applicants used to diligently locate Mr. Charles. There is no evidence submitted that applicants even attempted to contact him by telephone. Furthermore, applicants' have not provided any documentary evidence such as copies of letters, or postal receipts. Absent a sufficient showing that applicants have made a diligent effort to contact Mr. Charles, item (2) is not satisfied. Applicants' have not yet made such a showing.

Accordingly, since applicants failed to meet item (2), it is not appropriate to

accept this application under 37 CFR 1.47(a) at this time.

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) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Attorney Advisor
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13 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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1180 Avenue of the Americas
New York, New York 10036-8403

In re Application of :
CHARLES, Mark David *et al* :
U.S. Application No.: 09/890,775 : **RENEWED**
PCT No.: PCT/GB00/00345 :
Int. Filing Date: 04 February 2000 : **DECISION UNDER**
Priority Date: 06 February 1999 :
Attorney Docket No.: P/3610-16 : **37 CFR 1.47(a)**
For: N^2-PHENYLAMIDINE DERIVATIVES :

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)" submitted 26 September 2002.

BACKGROUND

On 27 March 2002, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2).

On 26 September 2002, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, a declaration signed by the nonsigning co-inventors, Mr. Simpson and Mr. Charles, a four-month extension and $1,440.00 fee, and the surcharge fee of $130.00 pursuant to 37 CFR .1492(e).

DISCUSSION

Here in the renewed petition, applicants have submitted declarations signed by the nonsigning co-inventors, Mark David Charles and Donald James Simpson. These declarations are in compliance with 37 CFR 1.497(a) and (b). Applicants previously submitted declarations signed by the other five co-inventors.

Accordingly, applicants petition under 37 CFR 1.47(a) is moot.

CONCLUSION

For the reasons above, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 February 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **26 September 2002**.

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

James Thomson
Attorney Advisor
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MAR 19 2002

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WASHINGTON, D.C. 20231
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CONNOLLY BOVE LODGE & HUTZ
1990 M. Street, N.W.
Washington, D.C. 20036-3425

In re Application of :
LINDSTROM, Mari, et al. :
U.S. Application No.: 09/890,784 : DECISION ON PETITION
PCT No.: PCT/FI00/00084 : UNDER 37 CFR 1.182
International Filing Date: 07 February 2000 :
Priority Date: 05 February 1999 :
Attorney's Docket No.: 1499/00049 :
For: POLYMER DISPERSION AND METHOD TO :
PRODUCE SAME :

This decision is issued in response to the "Response To Notification Of Missing Requirements" filed 17 December 2001, which has been treated as a petition under 37 CFR 1.182 to treat applicants' 06 August 2001 submission as a national stage submission for the above captioned international application and not for the international application indicated on the concurrently filed Transmittal Letter filed by applicants on 06 August 2001. Applicants have been charged the required petition fee.

BACKGROUND

On 07 February 2000, applicants filed international application PCT/FI00/00084 which claimed a priority date of 05 February 1999 and which designated the United States. On 10 August 2000, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States 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., 06 August 2001 (05 August 2001 was a Sunday).

On 06 August 2001, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials: (1) a copy of international application PCT/FI00/00084 (as published, in English), filed 07 February 2000; (2) a declaration executing PCT/FI00/00084; and (3) a check in the amount of $1040 ($1,000 as the basic national fee and $40 for recordation of an assignment). However, the Transmittal Letter submitted by applicants misidentified the international application number as PCT/FI00/00015 (a separate international application filed by the same applicants on 10 January 2000); the Transmittal Letter also incorrectly stated the international filing date as 10 January 2000. Based on applicants' error, a national stage application file was created for PCT/FI00/00015, rather than for PCT/FI00/00084.

On 15 October 2001, the United States Designated/Elected Office (DO/EO/US) mailed a

Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, a surcharge for providing the oath or declaration later than thirty months from the priority date, an English translation of the proper international application (i.e., PCT/FI00/00015), and a processing fee for submitting the translation after the thirty month deadline were required. The Notification also informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 17 December 2001, applicants filed the "Response To Notification Of Missing Requirements" considered herein. This Response included a corrected Transmittal Letter identifying the international application as PCT/FI00/00084, and setting forth the correct international filing date for this application (i.e. 07 February 2000).

DISCUSSION

In the present petition, applicants confirms that the listing of PCT/FI00/00015 in the original Transmittal Letter was incorrect, and that it was applicants' intent for the Transmittal Letter to refer to PCT/FI00/00084, the application attached to the original Transmittal Letter and the application referenced in the executed declaration submitted with the original Transmittal Letter. Applicant has also provided authorization to charge Deposit Account No.22-0185 for the required $130 petition fee and a corrected copy of the Transmittal Letter. Accordingly, applicant's petition to correct the Transmittal Letter is granted. This national stage file (09/890,784) is the national stage of PCT/FI00/00084.

Because applicants submitted an English version of international application PCT/FI00/00084 on 06 August 2001, that portion of the Notification Of Missing Requirements which required a proper translation and the processing fee for a late translation is no longer applicable.

However, a review of the declaration filed on 06 August 2001 reveals that, although the declaration references the proper international application, one of the inventors executed the declaration under a different name from that listed in the published international application. Specifically, the inventor identified in the international application as Mari LINDSTROM executed the declaration under the name Mari NIINIKOSKI. Under M.P.E.P. Section 605.04(c), under such circumstances, a petition to change the name of an inventor must be made under 37 CFR 1.182 and it must include the petition fee and "an affidavit signed with both names setting forth the procedure whereby the change of name was effected" or "a certified copy of the court order." Thus, until a grantable petition is submitted, the declaration filed on 06 August 2001 cannot be accepted.

CONCLUSION

The petition under 37 CFR 1.182 **GRANTED**.

Deposit Account No. 22-0185 has been charged $130 as the required petition fee.

This application is the national stage of PCT/FI00/00084 with an international filing date of 07 February 2000.

Applicant is given **TWO (2) MONTHS** from the mail date of this decision to submit a proper response. Such response would be an oath or declaration in compliance with 37 CFR 1.497 or, in the alternative, a grantable petition under 37 CFR 1.182 to change the name of inventor Mari LINDSTROM to Mari NIINIKOSKI, in the form discussed above. Failure to provide 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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24 JUL 2002

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Washington, D.C. 20036-3425

In re Application of	:	
LINDSTROM, Mari, et al.	:	
U.S. Application No.: 09/890,784	:	DECISION ON SECOND
PCT No.: PCT/FI00/00084	:	PETITION UNDER
International Filing Date: 07 February 2000	:	37 CFR 1.182
Priority Date: 05 February 1999	:	
Attorney's Docket No.: 1499/00049	:	
For: POLYMER DISPERSION AND METHOD TO PRODUCE SAME	:	

In a decision mailed by this Office on 19 March 2002, applicants' petition under 37 CFR 1.182 seeking to correct the transmittal letter filed 06 August 2001 to properly identify the international application as PCT/FI00/00084 was granted. The decision noted, however, that one of the inventors executed the declaration filed on 06 August 2001 under a different name from that listed in the published international application. The decision stated that applicants were therefore required to submit another petition under 37 CFR 1.182 to change the name of this inventor.

On 30 May 2002, applicants filed the "Petition Under 37 CFR 1.182" considered herein. Based on the authorization contained in this petition, Deposit Account No. 22-0185 has been charged $130 as the petition fee and $110 as the fee for a one month extension of time to respond to the previous decision. The petition was accompanied by the required affidavit from the inventor in question, signed in both her current (Mari Niinikoski) and former (Mari Lindstrom) names. Applicants have therefore submitted all the requirements for a grantable petition under 37 CFR 1.182. Accordingly, the petition under 37 CFR 1.182 to change the name of inventor Mari LINDSTROM to Mari NIINIKOSKI is **GRANTED**. Based on this change of name, the declaration filed on 06 August 2001 is accepted.

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 date is 06 August 2001.

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RMR/RC:rmr

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LOS ANGELES CA 90024

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Yuichi Murayama et al. :
Application No. 09/890,799 : ON PETITION
Deposited: August 3, 2001 :
Attorney Docket No. 13054.02140 :

This is a decision on the petition filed August 19, 2004, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 9, 2004 for failure to timely respond to the non-Final Office Action mailed December 8, 2003. No requests for extensions were filed. This decision precedes the mailing of a Notice of Abandonment was mailed February 5, 2004.

Petitioner argues that the Notice mailed December 8, 2003 was not received until July 27, 2004 and points out that the address used for mailing the office action was incorrect.

A review of the file reveals that the petitioner is correct and it is noted that an error on the part of the USPTO caused the office action mailed to not be received by the applicant's representative. Thus, petitioner's delay in responding to the non-Final Office Action was unavoidable under the standard set out at 37 CFR 1.137(a).

It appears that the file with the instant application has been confused with the file of another application and that the correspondence address, the name of the inventor and other identifying information for this instant file have been transposed however, the files

---

[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©)).

will be corrected and the agency apologizes for any inconvenience caused by its errors.

A message will be sent to Technology Center 1615 for both the correct file and that of the incorrect file to have the files reviewed for clarification of the record and for treatment of the amendment filed August 19, 2004 with the petition to revive. However, it should be noted that in order to correct the filing date, a petition under 37 CFR 1.53 will need to be filed with proof that all filing requirements were included with the file on August 3, 2001.

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

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12 SEP 2007

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of	:	DECISION
MURUYAMA et al.	:	
Application No.: 09/890,799	:	
PCT No.: PCT/US99/02445	:	
Int. Filing Date: 05 February 1999	:	
Priority Date: None	:	
Attorney Docket No.: 58086.244181	:	
For: THERMO-REVERSIBLE POLYMER FOR INTRALUMENAL IMPLANT	:	

This decision is in response to applicants' "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE AND FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 07 June 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 05 February 1999, applicant filed international application PCT/US99/02445 which designated the US and did not claim a priority date. A copy of the international application was communicated to the USPTO from the International Bureau on 10 August 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 August 2001 (05 August 2001 being a Sunday).

On 03 August 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 04 September 2001, 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.

On 12 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 02 January 2002.

On 08 December 2003, a first Office action on the merits was mailed.

On 19 August 2004, applicants filed a petition to revive the application which was accompanied by, *inter alia*, a USPTO postcard receipt date-stamped 30 January 2002 itemizing a declaration of inventors and a copy of a declaration of inventors.

On 17 November 2004, a decision was mailed granting applicants' petition to revive.

On 7 June 2007, applicant submitted the instant "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE AND FILING RECEIPT" which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The NOTICE OF ACCEPTANCE OF APPLICATION mailed 12 April 2002 contained the incorrect address and inventor name. The NOTICE also contained the incorrect international 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 date. A declaration of inventors in compliance with 37 CFR 1.497(a)-(b) does not appear in the file. Thus, the requirements of 35 U.S.C. 371(c)(4) have not been met and no 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 should have been accorded. According the 12 April 2002 NOTICE OF ACCEPTANCE is hereby VACATED.

The petition filed 19 August 2004 included a postcard receipt date-stamped 30 January 2002 by the USPTO itemizing a declaration of inventors and a copy of a declaration of inventors. However, the declaration is signed by only one of the three inventors (Yuichi Mori) and thus is not in compliance with 37 CFR 1.497(a)-(b).

The inventorship has been corrected.

Applicant urges that the response to the NOTIFICATION OF MISSING REQUIREMENTS was mailed 04 December 2001 but that the response was date-stamped by the USPTO as having been received 30 January 2002 and that this date-stamp must be incorrect. However, there were many excessive delays in delivery of United States Postal Service Mail during this time because of the anthrax scare.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

For the reasons set forth above, the NOTICE OF ACCEPTANCE OF APPLICATION mailed 12 April 2002 is VACATED.

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.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. A proper response must include a declaration of inventors in compliance with 37 CFR 1.497(a)-(b). (If applicants have already filed such a declaration, a petition under 37 CFR 1.181 should be filed. An itemized postcard receipt will serve as prima facie evidence of receipt. See MPEP § 503.) Extensions of time under 37 CFR 1.136(a) are available. Failure to timely file a proper response will result in abandonment of the application.

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17 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	DECISION
MURUYAMA et al.	:	
Application No.: 09/890,799	:	
PCT No.: PCT/US99/02445	:	
Int. Filing Date: 05 February 1999	:	
Priority Date: None	:	
Attorney Docket No.: 58086.244181	:	
For: THERMO-REVERSIBLE POLYMER FOR INTRALUMENAL IMPLANT	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181 INCLUDING PETITION TO REINSTATE NOTICE OF ACCEPTANCE" filed in the United States Patent and Trademark Office (USPTO) on 26 September 2007.

BACKGROUND

On 05 February 1999, applicant filed international application PCT/US99/02445 which designated the US and did not claim a priority date. A copy of the international application was communicated to the USPTO from the International Bureau on 10 August 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 August 2001 (05 August 2001 being a Sunday).

On 03 August 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 04 September 2001, 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.

On 12 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 02 January 2002.

On 08 December 2003, a first Office action on the merits was mailed.

On 19 August 2004, applicants filed a petition to revive the application which was accompanied by, *inter alia*, a USPTO postcard receipt date-stamped 30 January 2002 itemizing a declaration of inventors and a copy of a declaration of inventors.

On 17 November 2004, a decision was mailed granting applicants' petition to revive.

On 07 June 2007, applicant submitted a "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE AND FILING RECEIPT" which was properly treated as a petition under 37 CFR 1.181.

On 12 September 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.181 and vacating the NOTICE OF ACCEPTANCE OF APPLICATION mailed 12 April 2002.

On 26 September 2007, applicants filed the instant "RENEWED PETITION UNDER 37 CFR 1.181 INCLUDING PETITION TO REINSTATE NOTICE OF ACCEPTANCE" which was accompanied by, inter alia, two declarations of inventors and a copy of a USPTO date-stamped postcard receipt.

DISCUSSION

Petition to Accept Declarations of Inventors

Applicants have provided sufficient evidence to establish that on 30 January 2002 applicants filed two declarations of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 30 January 2002 and which itemizes "(2)" "Declaration[s]" and identifies the above-captioned application number, docket number, and title. Further, practitioner states that the copy of the declarations filed 26 September 2007 are copies of the declarations originally filed 30 January 2002. Therefore, in view of the date-stamped receipt and practitioner's statement, the declarations received on 26 September 2007 may properly be accepted as originally received in the USPTO on 30 January 2002.

Petition to Reinstate Notice of Acceptance

The declaration filed 30 January 2002 signed by Yuichi Murayama and Fernando Vinuela is not sufficient because it contains non-initialed alterations. 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I. Both the entry for Yuichi Murayama and the entry for Fernando Vinuela contain non-initialed alterations.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 to accept the declarations of inventors filed 26 September 2007 as having originally been received on 30

January 2002 is **GRANTED**.

For the reasons set forth above, the petition under 37 CFR 1.181 to reinstated the NOTICE OF ACCEPTANCE is **DISMISSED** without prejudice.

Applicant is required to submit a proper declaration within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

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.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, L.L.C.
US BANK BUILDING, SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

SEP 23 2003

OFFICE OF PETITIONS

In re Application of :
Philippe Chanclou, et al. :
Application No. 09/890,810 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. 136.162 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 January 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 17, 2003.

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

The application file is being forwarded to Technology Center 2800, Art Unit 2874 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 18 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

Paper No. 7

In re application of
David Lockwood
Application No. 09/890,815
Filed: February 6, 2002
For: COMPUTER BORROW AND LOAN SECURITIES AUCTION SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 30, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since 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: 7/17/02

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☑ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP TO:

STEVEN MEYERS **CPK5-~~ZY01~~ 8706**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OCT 0 7 2009

OFFICE OF PETITIONS

In re Patent No. 7,349,881	:	
Issued: March 25, 2008	:	
Application No. 09/890,815	:	ON PETITION
Filed: February 6, 2002	:	
Attorney Docket No. 53887-017	:	

This is a decision on the petition under 37 CFR 1.182, filed August 18, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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05 MAY 2003

Klaus P. Stoffel
Cohen, Pontani , Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

In re Application of	:
GLEIXNER	:
Application No.: 09/890,823	:
PCT No.: PCT/DE99/04126	:
Int. Filing Date: 29 December 1999	: DECISION on PETITION
Priority Date: 05 February 1999	:
Attorney Docket No.: 4595-22PUS	:
For: DISPLACEMENT AND/OR ANGLE SENSOR COMPRISING A MEANDERING MEASURING WINDING	:

The above-identified application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371 and applicant's petition filed on 11 October 2001 in the United States Patent and Trademark Office. The initial papers filed 06 August 2001 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/DE99/04126.

BACKGROUND

On 29 December 1999, applicants filed international application PCT/DE99/04126 which claimed a priority date of 05 February 1999. A Demand was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date, and as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, i.e. 06 August 2001 (05 August 2001 was a Sunday).

On 06 August 2001, applicants filed the present application. The application papers filed therewith included a transmittal letter (Form PTO-1390), a check to cover the basic filing fee of $430 and an assignment recording fee of $40, an executed declaration, and English translation of the international application. The transmittal letter referred to 35 U.S.C. 371 or "national stage"

and the declaration referenced the PCT international application. However, the application was processed as a filing under 35 U.S.C. 111(a).

DISCUSSION

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 pertinent part,:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

The transmittal letter contained specific instructions that this was a submission under 35 U.S.C. 371. Furthermore, the declaration, also filed 06 August 2001, clearly identifies in the declaration the specification to which it is directed by referring to international application PCT/DE99/04126. This is a clear indication that the papers were filed under 35 U.S.C. 371. Therefore, the application papers filed 06 August 2001 should have been processed under 35 U.S.C. 371, not 35 U.S.C. 111.

Accordingly, the filing receipt issued on this application, which did not indicate filing under 35 U.S.C. 371, was in error and is hereby **vacated**.

CONCLUSION

For the reasons above, the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

This application has an international filing date of 29 December 1999 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 06 August 2001

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, (1) for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and (2) Official Filing Receipt which identifies this application as a national stage application of PCT/DE99/04126.

Thereafter, the application will be forwarded to Art Unit 2862.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone 703-306-5467
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

12 AUG 2003

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#11

Oblon, Spivak, McClelland, Maier & Neustadt
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

In re Application of :
LUU, Bang, et al. :
Application No.: 09/890,969 :
PCT No.: PCT/JP00/00742 : DECISION ON
Int. Filing Date: 10 February 2000 :
Priority Date: 10 February 1999 : PETITION UNDER
Attorney Docket No.: 211815US0PCT :
For: USE OF A CYLOHEXENONE : 37 CFR 1.47(a)
LONG-CHAIN ALCOHOL FOR :
TREATING :
NEURODEGENERATIVE DISEASES :

This is in response to applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 30 June 2003.

BACKGROUND

On 10 February 2000, applicants filed international application PCT/JP00/00742. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 August 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 10 August 2001.

On 08 August 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 15 October 2001, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 11 April 2002, applicants filed "Petition Under 37 CFR §1.47(a)" accompanied by, *inter alia*, the Notification of Missing Requirements dated 11 September 2001 and a combined declaration and power of attorney.

On 03 September 2002, the Office mailed "Decision On Petition Under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice.

On 03 December 2002, applicants filed "Renewed Petition Under 37 C.F.R. §1.47(A)" accompanied by a request for a one month extension of time and the fee for a one month extension of time.

On 03 February 2003, applicants submitted a copy of the 03 December 2003 petition along with a copy of a postcard receipt.

On 28 April 2003, the Office dismissed applicants' renewed petition.

On 30 June 2003, applicants submitted a renewed petition accompanied by a petition under 37 CFR 1.182.

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), (2) and (3) were previously satisfied.

Item (4) has now been satisfied. Applicants have supplied a petition under 37 CFR 1.182 to change the name of Florence Keyling to Florence Keyling-Bilger in the application. The declaration of Ms. Keyling-Bilger is signed in both names and states the procedure by which the name changed. As such, the declaration complies with both 37 CFR 1.47 and 37 CFR 1.497(a)-(b).

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the 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. date of **11 April 2002**.

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

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12 AUG 2003

Philippe Chabert
9 rue du Temple
68300 Saint-Louis
France

In re Application of
LUU, Bang, et al.
Application No.: 09/890,969
PCT No.: PCT/JP00/00742
Int. Filing Date: 10 February 2000
Priority Date: 10 February 1999
Attorney Docket No.: 211815US0PCT
For: USE OF A CYLOHEXENONE LONG-CHAIN ALCOHOL FOR TREATING NEURODEGENERATIVE DISEASES

Dear Mr. Chabert:

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

Oblon, Spivak, McClelland, Maier & Neustadt
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

03 SEP 2002

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WASHINGTON, D.C. 20231
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#7

Oblon, Spivak, McClelland, Maier & Neustadt
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

In re Application of :
LUU, Bang, et al. :
Application No.: 09/890,969 :
PCT No.: PCT/JP00/00742 : DECISION ON
Int. Filing Date: 10 February 2000 :
Priority Date: 10 February 1999 : PETITION UNDER
Attorney Docket No.: 211815US0PCT :
For: USE OF A CYLOHEXENONE : 37 CFR 1.47(a)
LONG-CHAIN ALCOHOL FOR :
TREATING :
NEURODEGENERATIVE DISEASES :

This is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 April 2002.

BACKGROUND

On 10 February 2000, applicants filed international application PCT/JP00/00742. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 August 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 10 August 2001.

On 08 August 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 15 October 2001, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 11 April 2002, applicants filed "Petition Under 37 CFR §1.47(a)" accompanied by, *inter alia*, the Notification of Missing Requirements dated 11 September 2001 and a combined declaration and power of attorney.

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), (3) and (4) have been met. Applicants paid the $130 petition fee. The petition lists the last known address of the non-signing inventor Philippe Chabert as 9, rue du Temple, 68300 San-Louis, France. The declaration submitted is accepted as complying with 37 CFR 1.47(a).

As to item (2), 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). Further "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).

Applicants have not provided such a statement. Additionally, it is unclear what is the basis for applicants' belief that they have been unable to reach Mr. Chabert as it is not stated that either of the letters were returned as undeliverable.

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.

Richard Cole
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

#9

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28 APR 2003

Oblon, Spivak, McClelland, Maier & Neustadt
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

In re Application of LUU, Bang, et al. Application No.: 09/890,969 PCT No.: PCT/JP00/00742 Int. Filing Date: 10 February 2000 Priority Date: 10 February 1999 Attorney Docket No.: 211815US0PCT For: USE OF A CYLOHEXENONE LONG-CHAIN ALCOHOL FOR TREATING NEURODEGENERATIVE DISEASES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 03 December 2002.

BACKGROUND

On 10 February 2000, applicants filed international application PCT/JP00/00742. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 August 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 10 August 2001.

On 08 August 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 15 October 2001, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 11 April 2002, applicants filed "Petition Under 37 CFR §1.47(a)" accompanied by, *inter alia*, the Notification of Missing Requirements dated 11 September 2001 and a combined declaration and power of attorney.

On 03 September 2002, the Office mailed "Decision On Petition Under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice.

On 03 December 2002, applicants filed "Renewed Petition Under 37 C.F.R. §1.47(A)" accompanied by a request for a one month extension of time and the fee for a one month extension of time.

On 03 February 2003, applicants submitted a copy of the 03 December 2003 petition along with a copy of a postcard receipt.

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 (3) were previously met. The petition lists the last known address of the non-signing inventor Philippe Chabert as 9, rue du Temple, 68300 Saint-Louis, France.

Item (2) has now been satisfied.

Item (4) has not been satisfied, contrary to a previous indication. The declaration satisfies 37 CFR 1.47, but does not comply with 37 CFR 1.497(a)-(b). The international application is in the name of Florence Keyling and others. The declaration is executed by Florence Keyling-Bilger and others.

Under 37 CFR 1.41(a)(4), the inventors who submitted an application under §1.494 or §1.495 are the inventors in the international application designating the United States. The inventors in the international application include the inventors named upon filing of the international application or resulting from any changes made under Rule 92*bis* in the international stage. The record does not reflect any such requests under Rule 92*bis* during the international stage.

Applicant is required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Attention is directed to MPEP §605.04(c) and the requirement for a petition under 37 CFR 1.182 contained therein, if there has been a change of name.

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.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 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.

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
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MAY 25 2004

RAYMOND A. MILLER
C/O PEPPER HAMILTON LLP
500 GRANT STREET
50TH FLOOR
PITTSBURGH, PA 15219-2502

In re Application of	:
Janigro et al.	:
Serial No.: 09/891023	:WITHDRAWAL OF ABANDONMENT
Filed: June 25, 2001	:
Attorney Docket No.: 126233-0601	:

This is in response to applicant's petition under 37 CFR 1.181(f) and M.P.E.P. 711.03(c)(II), filed March 09, 2004, requesting withdrawal of the holding of abandonment.

BACKGROUND

A review of the file record shows that the Office mailed an Office Action on August 25, 2003, setting a shortened statutory period of 3 months for reply. On March 08, 2004, Applicants' filed a Petition requesting Withdrawal of Holding of Abandonment.

DISCUSSION

The file records and Petition have been considered carefully. The Petition states that Applicants' never received the Office Action mailed, on or about August 02, 2003. A complete search of the file jacket and docket records indicates that the Final Office Action was not received.

In support of this statement, Applicants' enclosed a copy of the docket record for this application, which indicates that the Final Office Action was not received or docketed.

Since the Office Action was never received, Applicants' respectfully request that the Examiner withdraw the holding of abandonment, and the Final Office Action be re-mailed as soon as possible.

Thus, Applicants have satisfied the requirements of 37 C.F.R. 1.181 and of M.P.E.P. 711.03(c)(II).

DECISION

In view of Applicants' file records, the Petition is **GRANTED**. The Holding of Abandonment has been withdrawn.

The Office Action will be re-mailed with a new response time.

Should there be any questions with regard to this letter please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (571) 272-0512 or by facsimile transmission at (703) 308-7230.

Jasemine Chambers
Director, Technology Center 1600

fr

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 16 2004

PEPPER HAMILTON
50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219-2502

In re Application of	:
Damir Janigro et al	:
Serial No.: 09/891,023	: PETITION DECISION
Filed: June 25, 2001	:
Attorney Docket No.: 126233.00601	:

This is in response to the petition under 37 CFR 1.181, filed March 8, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Final Office action to applicants on August 2, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on February 25, 2004. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

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United States Patent and Trademark Office
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Paper No. 10

GREGG C BENSON
PFIZER INC
PATENT DEPARTMENT MS 4159
EASTERN POINT ROAD
GROTON CT 06340

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Carpino, et al.	:	
Application No. 09/891,026	:	ON PETITION
Filed: June 25, 2001	:	
Attorney Docket No. PC10861ABTC	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed April 4, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 5, 2002. A Notice of Abandonment was mailed on December 11, 2002.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 1625 for consideration of the amendment filed June 1, 2004.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BRIAN C. KUNZLER
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Hanna et al. :
Application No. 09/891,032 : ON PETITION
Filed: June 25, 2001 :
Attorney Docket No. BLD92000047US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed September 30, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 31, 2005.

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

This matter is being referred to Technology Center 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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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Daniel Chi-Hong Lin et al :
Application No. 09/891,138 : DECISION GRANTING PETITION
Filed: June 25, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 018781-006210US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

No Notice of Abandonment has been mailed in this application. However, this application became abandoned by operation of law for failure to timely reply to the nonfinal Office action mailed April 15, 2003, which set a three month shortened statutory period for reply. No timely reply or extensions of time having been received, the date of abandonment of this application is July 16, 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 amendment;[1] (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 15, 2003 is accepted as having been unintentionally delayed.

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

The Examiner of Technology Center AU 1647 will take appropriate action on the reply received October 28, 2003 in due course.

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

[1] Receipt is also acknowledged of a declaration under 37 CFR 1.132, an Application Data Sheet, and a petition under 37 CFR 1.48(b) to correct inventorship.

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OFFICE OF PETITIONS

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :

Daniel Chi-Hong Lin :
Application No. 09/891,138 : DECISION ON PETITION
Filed: June 25, 2001 : TO WITHDRAW
Attorney Docket No. : 018781-00621OUS : 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), filedJune 20, 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 William B. Kezer, on behalf of all attorneys of record who are associated with Customer No. **20350**.

All attorneys/agents associated with Customer Number **20350** have been withdrawn.

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

All future correspondence will be directed to the first signing inventor at the first-listed address below.

This application is being referred to Technology Center AU 1647 to consider the Reply Brief filed May 25, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
DANIEL CHI-HONG LIN
2012 STRATTON RD.
WALNUT CREEK, CA 94598

BANNER & WILCOFF
1001 G STREET, NW
ELEVENTH FLOOR
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: Peter Kamvysselis	: DECISION ON REQUEST FOR
Patent Number	: 7577957	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/891,143	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Edward Johansen
11661 San Vicente Boulevard
Los Angeles CA 90049

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DEC 10 2002

OFFICE OF PETITIONS

In re Application of
Patrick O. Boykin et al.
Application No. 09/891,147
Filed: June 25, 2001
Attorney Docket No. OSCAR#5

DECISION ON PETITION

This is a decision on the Petition under 37 CFR 1.137(b), filed October 22, 2002, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application ("Notice") mailed August 16, 2001. The Notice set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely requested. Accordingly, the above-identified application became abandoned on October 17, 2001. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

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

Telephone inquiries concerning this matter should be directed to Huyen Le at (703) 305-1645.

Alesia Brown for/

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

#3

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Paper No. 3

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of :
Andy L. RUSE, et al. :
Application No. 09/891,167 : DECISION ON REQUEST FOR
Filed: June 26, 2001 : WITHDRAWAL AS ATTORNEY
For: SYSTEM, METHOD AND :
COMPUTER PROGRAM FOR MESSAGE
DELIVERY BASED ON A TREND
ANALYSIS

This is a decision on the Request To Withdraw from Reprsentation filed September 25, 2003.

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

The request is **GRANTED**.

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

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

cc: Kenyon & Kenyon
1500 K Street, N.W.
Suite 700
Washington DC 20005-1257

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WASHINGTON, D.C. 20231
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Paper No. 7

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JUL - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, Virginia 22209

In re Application of: Simon Tsang, et al.
Application No. 09/891,169
Filed: June 26, 2001
For: SYSTEM AND METHOD FOR ESTABLISHING AND MANAGING COMMUNICATIONS BETWEEN MANAGEMENT PROTOCOL DIFFERENT SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 19, 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.

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

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
c/o Grace Abercrombie
1279 Oakmead Parkway
Sunnyvale, CA 94086

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McDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Shigeo Irie :
Application No. 09/891,192 : DECISION GRANTING PETITION
Filed: June 26, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 60188-419 :

This is a decision on the petition, filed April 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 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 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental 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).

#6
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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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JAN - 7 2003

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NM
Washington, DC 20006

MAILED

JAN - 7 2003

Office of the Director
Group 3600

In re application of
Stanley Gene Boyer et al.
Application No. 09/891,197 : DECISION ON REQUEST
Filed: June 26, 2001 : FOR WITHDRAWAL OF
For: EVENT DRIVEN AIRPORT : ATTORNEY

This is a decision on the request filed on December 10, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to Item A), it is unclear if all attorney's of record are being withdrawn or all the attorney's given power in the original declaration except Debbie Segers of Sabre, Inc. Furthermore, the attorney signing the request does not appear to be an individual having power of attorney in this application.

As to Item B), there is no reason for withdrawal listed in the request. A reason in compliance with 37 CFR 10.40 is required.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

snm: 1/4/03

#8
DW

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MAR 25 2003

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Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20006

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MAR 25 2003
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Stanley Gene Boyer et al.
Application No. 09/891,197 : DECISION ON REQUEST
Filed: June 26, 2001 : FOR WITHDRAWAL OF
For: EVENT DRIVEN AIRPORT : ATTORNEY

This is a decision on the renewed request filed on January 22, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

A request for withdrawal as attorney was filed on December 10, 2002. The request was not approved in a decision mailed January 7, 2003 wherein it was held that the above identified application lacked conditions A) and B) above.

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

As to condition A), the attorney signing the request does not have power of attorney in this application. Furthermore, in the original declaration, Debbie Segers of Sabre, Inc. was also given power in this application and the request fails to list this attorney. If only the attorneys and agents of Finnegan, Henderson, Farabow, Garrett & Dunner listed in the original declaration are to have power withdrawn and Debbie Segers is intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the above-noted attorney would need to be added to the request.

As to condition B), there is no indication in the file record of the assignee being the "client." 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 proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

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

KJD/tpl: 3/18/03

#10
DW

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MAY 23 2003

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20006

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MAY 23 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Stanley Gene Boyer et al.
Application No. 09/891,197 : DECISION ON RENEWED
Filed: June 26, 2001 : REQUEST FOR WITHDRAWAL
For: EVENT DRIVEN AIRPORT : OF ATTORNEY

This is a decision on the renewed request filed on March 17, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

A request for withdrawal as attorney was filed on December 10, 2002. The request was not approved in a decision mailed January 7, 2003 wherein it was held that the above identified application lacked conditions A) and B) above. A renewed request to withdraw as attorney was filed on January 22, 2003. That request was also not approved because the request still lacked conditions A) and B) above.

The renewed request filed March 17, 2003 states that the assignee is Sabre, Inc. and refers to the assignment in the request by reel and frame number. The renewed request is not approved because the request does not comply with condition B) above.

Simply noting the reel and frame numbers of the recorded assignment is insufficient. 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.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 5/20/03

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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SEP 19 2002

UR
PAPER NO. 5

In re Application of
Eugene S. Smotkin
Serial Number: 09/891,200
Filed: June 26, 2001

For: HYDROGEN PERMEABLE MEMBRANE FOR USE IN FUEL CELLS, AND PARTIAL REFORMATE FUEL CELL SYSTEM HAVING REFORMING CATALYSTS IN THE ANODE FUEL CELL COMPARTMENT

DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed August 20, 2001, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) 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.

The petition is GRANTED.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

MORRISON & FOERSTER LLP
1650 Tysons Boulevard, Suite 300
McLean, VA 22102

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P.O. Box 1450
Alexandria, VA 22313-1450
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glm

Mailed : 2-22-08

In re Application of	:	DECISION
Eugene S. Smotkin	:	GRANTING
Serial No. 09/891,200	:	PETITION
Filed: June 26, 2001	:	
For: ELECTROLYTE COMPONENTS FOR USE IN FUEL CELLS (AS AMENDED)	:	

This is a decision on the December 21, 2007 "PETITION UNDER 37 CFR 1.181."

Applicant filed appeal briefs on July 11, 2007 and October 3, 2007, which were held non-compliant under 37 CFR 41.37 by the examiner in communications mailed August 10, 2007 and November 21, 2007, respectively. In both cases the examiner held the briefs to be non-compliant based on their inclusion of 'subject matter exceed[ing] applicant's instant invention' within the Summary of Claimed Subject Matter section of the brief.

The instant petition was then timely filed on December 21, 2007 and is before the Director of Technology Center 1700 for consideration. (No fee is due for this petition.) The petition requests that the objections raised by the communications of August 10, 2007 and November 21, 2007 be withdrawn, and the brief of either July 11, 2007 or October 3, 2007 be accepted. An additional revised brief was filed along with the instant petition.

The petition is **GRANTED** for the reasons below.

DECISION

The brief summary section must contain a summary of the claimed subject matter of each independent claim on appeal, with reference to the corresponding portions of the specification, but may contain additional material as well. As noted in the Federal Register (69 Fed. Reg. 49959) when the current version of 37 CFR 41.37 was published, 'the determination of how ''concise'' the explanation must be will need to be determined on a case-by-case basis... Appellant may include any other information of record which will aid the Board in considering the subject matter of each independent claim.' The examiner's requirement to limit the Summary of Claimed Subject Matter to strictly the claim elements is thus incorrect.

Applicant requests that either the July 11, 2007 brief or the October 3, 2007 brief be retained as the brief before the Board, without any apparent preference. In reviewing both briefs, it appears that the October 3, 2007 brief contains a more detailed 'mapping' of the claim elements against the specification than does the July 11, 2007 brief. It thus appears that the October 3, 2007 brief would be somewhat more useful to the Board, and therefore this is the brief that will be retained as applicant's appeal brief before the Board.

As the appeal brief filed October 3, 2007 was compliant with 37 CFR 41.37, applicant's petition is hereby **GRANTED**.

The examiner shall consider the appeal brief of October 3, 2007 and take appropriate action in response thereto. The revised briefs of July 11, 2007 and December 21, 2007 shall not be entered.

Jacqueline M. Stone

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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Alexandria, VA 22313-1450
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JUL 17 2009

Staas & Halsey LLP
1201 New York Avenue, N.W.
Suite 700
Washington, DC 20005

In re Application of	:	
Naoyuki Fujisawa et al.	:	
Application No. 09/891,204	:	DECISION ON PETITION
Filed: June 26, 2001	:	UNDER 37 C.F.R. 1.181 TO
For: METHOD AND SYSTEM FOR	:	WITHDRAW FINALITY
TRANSFERRING COMMUNICATION	:	
FEE	:	

This is in response to applicant's Petition filed on August 8, 2006, requesting withdrawal of the finality of the Office action mailed May 19, 2006 as being premature.

The petition is **DISMISSED AS MOOT.**

Petitioner alleges that the final rejection dated May 19, 2006 was "incomplete" since "the Examiner has not provided support" of a statement from the previous Office action "nor provided an affidavit to support the assertion."

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97 (c) with the fee set forth in 37 C.F.R. 1.17(p).

A review of the record indicates that applicant's filed an After Final Amendment August 21, 2006. The Office responded with an Advisory Action September 26, 2006. Applicant's subsequently filed a Request for Continued Examination (RCE) on October 18, 2006, therefore the finality has already effectively been withdrawn and the issue is moot. Further review of the record indicates that the examiner issued a non-final rejection on January 16, 2007, applicant responded with an amendment on May 14, 2007, the examiner issued a Final rejection on August 10, 2007, and the application has since been abandoned on February 20, 2008.

Wynn W. Coggins, Director
Patent Technology Center 3600
571-272-5350

EWS: 07/13/09

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OFFICE OF PETITIONS

DARBY & DARBY PC
PO BOX 5257
NEW YORK NY 10150-5257

In re Application :
Atherton, et al. :
Application No. 09/891,206 : DECISION ON APPLICATION
Filed: June 26, 2001 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 20342/0202324-US0 :

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.705(b)," filed February 2, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to sixty (60) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On November 2, 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 zero (0) days. On February 2, 2006, applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA is sixty (60) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment of thirty-seven (37) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and applicants' delays of ninety-one (91), thirty-one (31), and ninety-one (91) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay of three hundred five (305) days for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[2]

In addition, applicants have also directed the Office's attention to another adjustment for applicant delay. A Notice of Allowance was mailed on January 31, 2005. Applicants filed an RCE on April 27, 2005, and assert that they should have been assessed delay of sixty-seven (67) days pursuant to 37 C.F.R. § 1.704(c)(10). However, an RCE is a proper response to a Notice of Allowance, and accordingly applicants should not be assessed any delay for its filing. However, applicants should have been assessed applicant delay of forty-three (43) days pursuant to 37 C.F.R. § 1.704(c)(8) for the filing of an Amendment on June 9, 2005.

---

[1] Applicants filed the application for patent term adjustment prior to paying the issue fee.

[2] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (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).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (37 days of PTO delay, reduced by 256 (43+31+91+91) days of applicant delay).

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

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

Day : Monday
Date: 4/10/2006

PALM INTRANET

Time: 14:45:45

PTA Calculations for Application: 09/891206			
Application Filing Date:	06/26/2001	PTO Delay (PTO):	37
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	213
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-43		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	04/10/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		43	
70	11/02/2005	MAIL NOTICE OF ALLOWANCE			
69	11/01/2005	ISSUE REVISION COMPLETED			
68	11/01/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	10/31/2005	NOTICE OF ALLOWABILITY			
66	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	64
65	10/28/2005	DATE FORWARDED TO EXAMINER			
64	10/05/2005	RESPONSE AFTER NON-FINAL ACTION			
63	07/05/2005	MAIL NON-FINAL REJECTION			
62	07/01/2005	NON-FINAL REJECTION			
61	06/29/2005	DATE FORWARDED TO EXAMINER			
60	04/27/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	06/29/2005	DATE FORWARDED TO EXAMINER			
58	04/27/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	06/29/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
56	04/27/2005	MISCELLANEOUS INCOMING LETTER			
55	06/29/2005	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
54	06/29/2005	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
53	04/27/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
52	06/29/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			

51	06/29/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
50	06/09/2005	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
49	06/29/2005	CORRESPONDENCE ADDRESS CHANGE			
48	06/29/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
47	04/27/2005	WORKFLOW - REQUEST FOR RCE - FINISH			
46	06/17/2005	RECEIPT INTO PUBS			
45	05/26/2005	WORKFLOW - QUERY REQUEST - FINISH			
44	05/16/2005	WORKFLOW - QUERY REQUEST - BEGIN			
43	04/27/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	02/07/2005	EXPORT TO INITIAL DATA CAPTURE			
41	02/17/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
40	01/31/2005	MAIL NOTICE OF ALLOWANCE			
39	01/31/2005	MAIL EXAMINER'S AMENDMENT			
38	01/28/2005	ISSUE REVISION COMPLETED			
37	01/28/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	01/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	01/28/2005	EXAMINER'S AMENDMENT COMMUNICATION			
34	01/28/2005	NOTICE OF ALLOWABILITY			
33	12/08/2004	DATE FORWARDED TO EXAMINER			
32	11/12/2004	RESPONSE AFTER NON-FINAL ACTION		31	29
31	11/12/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	11/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	07/12/2004	MAIL NON-FINAL REJECTION			
28	07/09/2004	NON-FINAL REJECTION			
27	05/04/2004	DATE FORWARDED TO EXAMINER			
26	04/21/2004	RESPONSE AFTER NON-FINAL ACTION		91	22
25	04/21/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	11/16/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
23	04/21/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	10/21/2003	MAIL NON-FINAL REJECTION			
21	10/20/2003	NON-FINAL REJECTION			
20	08/11/2003	DATE FORWARDED TO EXAMINER			
19	07/29/2003	RESPONSE AFTER NON-FINAL ACTION		91	17

18	07/29/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	01/29/2003	MAIL NON-FINAL REJECTION			
16	01/27/2003	NON-FINAL REJECTION			
15	11/21/2002	DATE FORWARDED TO EXAMINER			
14	11/04/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
13	10/02/2002	MAIL RESTRICTION REQUIREMENT	37		-1
12	10/01/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
11	07/10/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	06/26/2001	PRELIMINARY AMENDMENT			
7	11/28/2001	APPLICATION DISPATCHED FROM OIPE			
6	11/27/2001	APPLICATION IS NOW COMPLETE			
4	08/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/21/2001	CORRESPONDENCE ADDRESS CHANGE			
2	07/05/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/26/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PATENT & TRADEMARK OFFICE

Express Mail Label No. Dated: _____

Docket No.: 20342/0202324-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Nigel Atherton *et al.*

Allowed: November 2, 2005

Application No.: 09/891,206

Confirmation No.: 9337

Filed: June 26, 2001

Art Unit: 1616

For: Treatment of Bone Diseases

Examiner: John D. Pak

REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.705(b)

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

Dear Sir:

Applicants, through the undersigned attorneys/agents, hereby request reconsideration of the Patent Term Adjustment ("PTA") indicated in the Notice of Allowance for this application. Applicants respectfully submit that the PTA indicated in the Notice of Allowance is incorrect, and that the correct Patent Term Adjustment to date (February 2, 2006) is actually **60 days**. A detailed statement of the facts involved is set forth below, starting on page 3 of this document, and pursuant to the requirements of 37 C.F.R. §§ 1.705(b)(2)(i) - (iv).

The Issue Fee Transmittal and amendment under 37 C.F.R. §1.312 for this patent application accompany this submission, along with a check in the amount of **$1,900.00** for payment of (i) the Issue and Publication Fees ($1,700.00); and (ii) the $200.00 fee required under 37 C.F.R. §§ 1.705(b)(1) and 1.18(e). A copy of the following document is also attached hereto, for the Examiner's convenience when considering this request:

02/07/2006 WABDELR3 00000045 09891206 200.00 DP
03 FC:1455

Tab A: the USPTO's Patent Term Adjustment ("PTA") History for this application, as downloaded from the Patent Application Information Retrieval (PAIR) WEB site on February 1, 2006;

It is believed that no additional fee is required for this submission. However, should the U.S. Patent and Trademark Office determine that any additional fee is required or that a refund is due for this application, then the Commissioner is hereby authorized and requested to charge the required fee(s) and/or credit any refund(s) due to the above-mentioned Deposit Account No. 04-0100.

STATEMENT OF THE FACTS INVOLVED

A. Statement of the Correct Patent Term Adjustment (37 C.F.R. § 1.705(b)(2)(i))

On November 2, 2005, the U.S. Patent and Trademark Office mailed a Notice of Allowance for this application stating that "[t]he Patent Term Adjustment to date [November 2, 2005] is 0 day(s)." The Notice of Allowance also states that:

> If the issue fee is paid on the date that is three months after the mailing date of this notice [*i.e.*, on February 2, 2006] and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice [*i.e.*, on May 16, 2006], the Patent Term Adjustment will be 0 days.

The detailed Patent Term Adjustment History calculated by the U.S. Patent and Trademark Office for this application (hereinafter referred to as the "PTA History")[1] is attached hereto at Tab A, and reveals that the Patent and Trademark Office calculated a patent term adjustment of 37 days for "USPTO delay," reduced by 213 days for "applicant delay."

The U.S. Patent and Trademark Office's calculation of the Patent Term Adjustment is incorrect, as explained in detail below. The correct Patent Term Adjustment to date (February 2, 2006) is **60 days**. Applicants assert that the correct amount of Patent Term Adjustment is the difference between the sum of the periods calculated under 37 C.F.R. § 1.703(a)-(e) (*i.e.*, **342 days**) less the sum of the periods calculated under 37 C.F.R. § 1.704 (*i.e.*, **282 days**). *See*, 37 C.F.R. § 1.703(f).

B. Bases under 37 C.F.R. §1.702 for the Adjustment and The Relevant Dates For Which an Adjustment Is Sought (37 C.F.R. §§ 1.705(b)(2)(i) and (ii))

Applicants assert the following bases under 37 C.F.R. §1.702 for the adjustment and the relevant dates for which an adjustment is sought under 37 C.F.R. §1.703(a)-(e):

---

[1] The PTA History was downloaded from the Patent Application Information Retrieval (PAIR) WEB site on February 1, 2006.

(1) Under 37 C.F.R. § 1.703(a)(1), the period of adjustment includes the number of days in the period beginning on the day after the date that is 14 months after the date on which the application was filed under 35 U.S.C. §111(a) and ending on the date of mailing of an action under 35 U.S.C. §132. In the instant application, the PTA History shows the correct period of adjustment, *i.e.*, **37 days** (or the period starting on the day after the date that is 14 months after filing the application (*i.e.*, August 27, 2002) and ending on the date of mailing the Restriction Requirement (*i.e.*, October 2, 2002)).

(2) Under 37 C.F.R. § 1.703(b)(1), the period of adjustment includes the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. §111(a) and ending on the date the patent issues, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. §132(b) was filed and ending on the date the patent is issued. Therefore, Applicants are entitled to a period of adjustment starting on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. §111(a) (*i.e.*, June 27, 2004) and ending on the date on which the request for continued examination of the application under 35 U.S.C. §132(b) was filed (*i.e.*, April 27, 2005). This period is **305 days.**

(3) Applicants reserve the right to request a reconsideration of patent term adjustment determination under 37 C.F.R. §1.705(d), if the patent issues from this application later than 4 months after the issue fee was paid and all outstanding requirements are satisfied. *See* 37 C.F.R. §1.703(a)(6).

(4) Because the periods discussed above in (1; August 27, 2002 to October 2, 2002) and (2; June 27, 2004 to April 27, 2005) do not overlap, Applicants believe that the correct amount of patent term adjustment is **342 days** (*i.e.*, the sum of the periods discussed in (1) above (37 days) and (2) above (305 days) (37 days + 305 days = 342 days)) **less the sum of the periods calculated under 37 C.F.R. § 1.704,** as calculated below. *See*, 37 C.F.R. § 1.703(f).

C. **Statement Regarding Terminal Disclaimer (37 C.F.R. 1.705(b)(2)(iii))**

This application is not subject to any terminal disclaimer.

D. **Statement of Circumstances Constituting a Failure to Engage in Reasonable Efforts to Conclude Prosecution (37 C.F.R. § 1.705(b)(2)(iv))**

Applicants assert that the following reductions apply to the period of adjustment of patent term under 37 C.F.R. § 1.704:

(1) Under 37 C.F.R. § 1.704(b) and as revealed by the PTA History, the 3-month extension of time requested in response to the Office Action mailed January 29, 2003 (91 days); the 3-month extension of time requested in response to the Office Action mailed October 21, 2003 (91 days); and the 1-month extension of time requested in response to the Office Action mailed July 12, 2004 (31 days), are failures to engage in reasonable efforts to conclude prosecution. The sum of these extensions is **213 days** (91 + 91 + 31 = 213 days).

(2) Under 37 C.F.R. § 1.704(c)(10), submission of a paper after a Notice of Allowance has been mailed are failures to engage in reasonable efforts to conclude prosecution. The period of adjustment set forth under 37 C.F.R. § 1.703 shall be reduced by the lesser of the number of days beginning on the date a paper (such as an amendment under 37 C.F.R. §1.312) was filed and ending on the mailing date of the Office Action (or notice in response to the amendment under 37 C.F.R. §1.312) or 4 months. Thus, under 37 C.F.R. § 1.704(c)(10), the period between submission of a Request for Continued Examination on April 27, 2005 (*i.e.*, after the Notice of Allowance was mailed) and the mailing of the next Office Action (*i.e.*, July 5, 2005) is a failure to engage in reasonable efforts to conclude prosecution. This period (April 27, 2005 to July 5, 2005) is **69 days**.

(3) According to the PTA History, an "Amendment After Notice of Allowance (Rule 312)" was filed on June 9, 2005 and a "Response to Amendment Under Rule 312" was mailed on June 29, 2005. Under 37 C.F.R. § 1.704(c)(10) as summarized above in (2), the period of adjustment set forth under 37 C.F.R. § 1.703 shall be reduced by the lesser of the number of days beginning on the date an amendment under 37 C.F.R. § 1.312 was filed and ending on the mailing

date of the notice in response to the amendment under 37 C.F.R. § 1.312 or 4 months. Applicants respectfully submit that 37 C.F.R. § 1.704(c)(10) does not apply in the instant case because a Request for Continued Examination was filed on April 27, 2005 (*i.e.*, before the "Amendment After Notice of Allowance (Rule 312)" on June 9, 2005 was filed.) Thus, classification of the June 9th amendment as an amendment after Notice of Allowance is incorrect. In sum, for the purposes of calculating delays under 37 C.F.R. § 1.704(c)(10), Applicants assert that the "Amendment after Notice of Allowance (Rule 312)" of June 9, 2005 in the PTA History is not an amendment under 37 C.F.R. §1.312 because a Request for Continued Examination was filed on April 27, 2005 and should not be considered a failure to engage in reasonable efforts to conclude prosecution.

(4) Thus, under 37 C.F.R. § 1.704, the total period for failures to engage in reasonable efforts to conclude prosecution is the sum of (1) above (213 days) and (2) above (69 days) (*i.e.*, **282 days**; 213 days + 69 days = 282 days) and may be subtracted from the sum of the periods calculated under 37 C.F.R. § 1.703 (*i.e.*, **342 days**). *See*, 37 C.F.R. § 1.703(f).

Conclusion

For all of the foregoing reasons, Applicants submit that this application is entitled to a net Patent Term Adjustment of **60 days** to date (*i.e.*, the difference between the sum of the periods calculated under 37 C.F.R. § 1.703 *(i.e.*, 342 days) and the sum of the periods calculated under 37 C.F.R. § 1.704 *(i.e.*, 282 days)). Applicants respectfully request that this application be granted, and that the patent issuing from this application be accorded the appropriate net period of Patent Term Adjustment set forth above.

Respectfully submitted,

Dated: February 2, 2006

By _____

Shelly M. Fujikawa, Ph.D. (Reg. No. 56,190)
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
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Attorneys/Agents For Applicant

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

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OFFICE OF PETITIONS

In re Application of :
Zhou :
Application No. 09/891,224 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. 42390P11803 :
For: STATISTICAL SPOKEN DIALOG SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006 (certificate of mailing date April 21, 2006), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed July 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2005 for failure to reply. A Notice of Abandonment was mailed on March 13, 2006.

Petitioner has submitted an amendment in reply to the July 26, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 26, 2005 non-final Office action, and the required petition fee.[1]

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 2654 for consideration of the amendment filed on April 25, 2006 (certificate of mailing date April 21, 2006).

---

[1] Practitioner may not have been in a position to know whether or not the delay was unintentional. If practitioner has no knowledge of the nature of the delay, practitioner must make a reasonable inquiry into the matter. If practitioner discovers the delay was not unintentional, practitioner must notify the Office. A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed to the address of record.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD., 7TH FLOOR
LOS ANGELES, CA 90025

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of :
Ake R. Lindahl :
Application No. 09/891,256 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 62-262 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 May 6, 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 August 7, 2004.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Niichi Itoh
Application No. 09/891,356
Filed: June 27, 2001
Attorney Docket No. 57454-125

This is a decision on the petition, filed January 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 20, 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 2827 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/09/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09891512 Patent No.: 7006711

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The following changes are **NOT** accepted:

1) On page 3, in field (56), under "Other Publications", in column 1, line30,after "www.faqs" delete ".org/faqs".

Reason: Change removes the URL address to access the website.

/Bhavesh M. Mehta/ **2624**
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

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MAR 25 2008

OFFICE OF PETITIONS

INTEL/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of :
Ryan No. Rakvic, et al. :
Application No. 09/891,523 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 042390.P11236 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 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 pay the issue and publication fees on or before January 9, 2006. A Notice of Abandonment was mailed on July 14, 2006

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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).

The present petition lacks item 1. 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.

Effective September 30, 2007, the fee for a petition to revive an unintentionally abandoned application was increased from $1500 to $1540. Likewise, the issue fee was increased from $1400 to $1440. Since the publication fee remained at $300, the total fees required for revival of this application was $3280. Petitioner submitted a payment of $3200. Since any fee amount paid on or after September 30, 2007, must be paid in the revised amount, the fees submitted on October 12, 2007 were applied first to the requisite $1540 petition fee, then $300 for the publication fee, resulting

in a partial issue fee payment of $1360. It is noted that the petition did not include an authorization to charge the $80 fee deficiency to a deposit account. Accordingly, the petition cannot be granted until the balance of the issue fee has been paid.

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

UNITED STATES 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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OFFICE OF PETITIONS

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of
Ryan N. Rakvic, et al.
Application No. 09/891,523
Filed: June 27, 2001
Attorney Docket No. 042390.P11236

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 9, 2006. A Notice of Abandonment was mailed on July 14, 2007. On December 10, 2007, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed March 25, 2008. In response, on April 25, 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

INTERNATIONAL PAPER COMPANY
1422 LONG MEADOW ROAD
TUXEDO, NY 10987

COPY MAILED

OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Steven R. Van Fleet :
Application No. 09/891,544 : ON PETITION
Filed: June 23, 2001 :
Attorney Docket No. IP6094 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 16, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 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.

Pursuant to petitioner's authorization, Deposit Account No. 09-0525 was charged $130.00 for the late filing of oath or declaration.

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

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: RICHARD C. STEWART, II
INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE ROAD
LOVELAND, OH 45140

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENKEL CORPORATION
THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS, PA 19406

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NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of :
William A. Sobonya et al :
Application No. 09/891,568 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. M 6817 MANCO

This is a decision on the petition, filed November 23, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

This matter will be forwarded to Technology Center AU 1771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN TX 78701

COPY MAILED

MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Wenzel :
Application No. 09/891,569 : ON PETITION
Filed: June 25, 2001 :
Attorney Docket No.: 5150-55600 :

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

On July 1, 2005, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application became abandoned on October 2, 2005. On January 9, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements of 37 CFR 1.137(b) to revive this application. Petitioner submitted a reply in the form of payment of the issue fee and the publication fee, made the appropriate statement of unintentional delay, and paid the petition fee. Accordingly, the petition is granted.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the issuance of a patent should be directed to the Office of Patent Publication Customer Service at (571) 272-4200.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Carlos C. Mark Gay

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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LEYDIG, VOIT & MAYER
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Paper No. 7

Leydig Voit & Mayer, LTD
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6780

PAYTM Due Date 2/2/04
6/2/04 (Final)

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DEC 0 2 2003
OFFICE OF PETITIONS

In re Application of :
Nanping Wu :
Application No. 09/891,576 : ON PETITION
Filed: June 25, 2001 :
Attorney Docket No. 210030 :

CGC
ARH

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 DISMISSED.

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

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

As to item (1), There is no indication that a response to the Office action mailed July 18, 2002 has been submitted. Accordingly, a proper reply to the Office action must be submitted before revival of the application can be effected.

The required reply to a non-final action in a non-provisional application abandoned for failure to prosecute may be either: (A) an argument or an amendment under 37 CFR 1.111 or; (B) the filing of a continuing application under 37 CFR 1.53(b).

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be bona fide. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month

shortened imited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned. See MPEP 711.03(c).

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

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

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

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

Telephone inquiries concerning this decision should be directed the undersigned at (703) 308-6911.

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

Attachment: non-final Office 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

Paper No. 10

Noted

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FEB 0 6 2004

OFFICE OF PETITIONS

Leydig Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, IL 60601-6780

In re Application of
Nanping Wu
Application No. 09/891,576
Filed: June 25, 2001
Attorney Docket No. 210030

ON PETITION

This is a decision in reply to the renewed petition under 37 CFR 1.137(b), filed February 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 in reply to the non-final Office action mailed July 18, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 19, 2002.

The application will be forwarded to Technology Center AU 3743 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

ARF

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-1-07

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/891,584 Patent No.: 7120685

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 Review C of C

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. 177

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: _____

Approved

/Nathan J. Flynn/ SPE 2154

_____ _____

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
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Paper No.

McGinn & Gibb, PLLC
Suite 200
8321 Old Courthouse Road
Vienna, VA 22182-3817

COPY MAILED
MAY 12 2004
OFFICE OF PETITIONS

In re Application of :
Manabu Taniguchi, et al. :
Application No. 09/891,606 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. K06-135818M/TBS :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
PERRY :
Application No. 09/891,638 : DECISION ON PETITION
Filed: June 26,2001 : TO WITHDRAW
Attorney Docket No. BELL-0121/01127 : 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 9, 2005.

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

A review of the file record indicates that the power of attorney to Jonathan M. Waldman has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

In re Application of
PERRY
Application No. 09/891,638
Filed: June 26,2001
Attorney Docket No. BELL-0121/01127

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 August 9, 2005.

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

A review of the file record indicates that the power of attorney to Jonathan M. Waldman has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#9

NOV 1 2 2004

In re Patent No. 6,638,680
Issue Date: 10/28/2003
Appl. No.: 09/891,649
Filed: 6/26/2001

: DECISION
: DISMISSING
: PETITION
: 37 CFR 1.324

For: MATERIAL AND METHOD FOR MAKING AN ELECTROCONDUCTIVE PATTERN

This is a decision on the request under 37 CFR 1.48, filed 5/3/2002. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) 2, and 4.

Mark F. Huff
Supervisory Patent Examiner,
Art Unit 1756,
Technology Center 1700

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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

Richard S. Myers, Jr.
Waddey & Patterson
Suite 2020
414 Union Street
Nashville TN 37219

COPY MAILED

MAR 2 8 2002

OFFICE OF PETITIONS

In re Application of:
Pratt, *et al.*
Application No. 09/891,671
Filed: June 25, 2001
Attorney Docket No. N-6636

DECISION GRANTING PETITION

This is a decision on the February 25, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of June 25, 2001 rather than the presently accorded filing date of June 26, 2001.

Petitioner alleges that the application was deposited in Express Mail service on June 25, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL849655147US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 25, 2001.

In view of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to June 25, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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D A C

OIPE JUL 11 2003 PATENT & TRADEMARK OFFICE

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JUL 15 2003
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RECEIVED
JUL 18 2003
TECH CENTER 1600

Paper No. 4

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MAR 28 2002

OFFICE OF PETITIONS

Richard S. Myers, Jr.
Waddey & Patterson
Suite 2020
414 Union Street
Nashville TN 37219

In re Application of:
Pratt, *et al.*
Application No. 09/891,671
Filed: June 25, 2001
Attorney Docket No. N-6636

DECISION GRANTING PETITION

This is a decision on the February 25, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of June 25, 2001 rather than the presently accorded filing date of June 26, 2001.

Petitioner alleges that the application was deposited in Express Mail service on June 25, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL849655147US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 25, 2001.

In view of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to June 25, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Serge J. Hodgson
Gunnison, McKay & Hodgson, L.L.P.
Suite 220
1900 Garden Road
Monterey, CA 93940

MAILED

JAN 18 2002

OFFICE OF DIRECTOR
GROUP

In re Application of)
GLENN et al.)
Application No. 09/891,678) DECISION ON PETITION
Filed: June 25, 2001) TO MAKE SPECIAL
For: OPTICAL TRACK DRAIN PACKAGE)

This is a decision on the petition under 37 C.F.R. § 1.102, filed on June 25, 2001, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item IV, must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of a driver license issued to the applicant as a showing that applicant is sixty five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a *bona fide* effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds an interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 06

Rahul Engineer
SKJERVEN MORRILL MacPHERSON LLP
3 Embarcadero Center, Suite 2800
San Francisco, CA 94111

MAILED
MAR 5 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:
Biellak, *et al.*
Application No. 09/891,693
Filed: June 26, 2001
Attorney Docket No.: M-10693 US

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the request filed October 03, 2002, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The request is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on January 24, 2002. A Notice of Abandonment was mailed on August 22, 2002.

Petitioner asserts that a response including a petition for extension of time of three months with the required fee, an Information Disclosure Statement and a response to the Office action of July 23, 2002, was mailed by Express Mail in the above-identified application on July 24, 2002.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed but has since been matched therewith. The response of record bears a stamped receipt date of July 24, 2002.

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

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response received on July 24, 2002. From there, the application will be forwarded to the examiner for appropriate action.

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

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

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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DW 05-03

Paper No. 13

PARSONS HSUE & DE. RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

COPY MAILED

MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Biellak et al.	:	
Application No. 09/891,693	:	ON PETITION
Filed: 26 June, 2001	:	
Attorney Docket No. M-10693 US	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 27 February, 2003, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

This application was held abandoned on 24 April, 2002, for failure to timely respond to the Office action mailed on 24 January, 2002, which set a three (3) month period for reply.

---

[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)).

Petitioners filed a reply on 24 July, 2002, accompanied by a three month extension of time. However, that reply did not contain the proper application number. On 3 October, 2002, a petition to withdraw the holding of abandonment was filed. The petition was granted on 5 March, 2003, because the reply filed on 24 July, 2002, had subsequently been matched with the file.

In view of the withdrawal of the holding of abandonment on 5 March, 2003, the petition to revive filed on 27 February, 2003, is moot.

The petition fee, less the $20.00 fee deficiency owed for additional claims, will be will be credited to counsel's deposit account, No. 19-2386, as authorized in the transmittal letter filed with the original application papers.

The application file is being forwarded to Technology Center 2800 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Glenn M. Seager
C/O Crompton, Seager & Tufte LLC
Suite 800
1221 Nicollet Avenue
Minneapolis, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Richard L. Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7588554	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/891,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAILED

MAY 18 2004

Office of the Director
Group 3600

Russell Patton Davis
1521 Quail Pt. Rd.
Viginia Beach, VA 23454

In re Application of:		:	**PETITION UNDER**
	Russell Patton Davis	:	
Serial No.	09/891,757	:	**37 C.F.R. 1.103(a)**
Filed:	June 26, 2001	:	&
	For: **An Integrated System for Shellfish Production**	:	**37 C.F.R. 1.181**

This decision is in response to your letters of petition for suspension under 37 CFR 1.103(a) received on March 1, 2003, March 7, 2003, May 2, 2003, September 2, 2003, and March 5, 2004. The above noted petitions have also been collectively treated as a request for Supervisory Review under 37 C.F.R. 1.181 for the decision denying suspension of action under 37 C.F.R. 1.103(a) rendered by Primary Examiner Richard Price in the office action mailed on April 8, 2003.

MPEP 709 and 37 CFR 1.103(a) states in part:

709 [R-1] Suspension of Action
37 CFR 1.103. Suspension of action by the Office.
(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend
action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action
under this paragraph must specify a period of suspension not exceeding six months. Any petition for
suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Subpart E of this part.
Suspension of action (37 CFR 1.103) should not be confused with extension of time for reply (37 CFR 1.136). ***It is to be noted that a suspension of action applies to an impending Office action by the examiner whereas an extension of time for reply applies to action by the applicant. In other words, the action cannot be suspended in an application which contains an outstanding Office action or requirement awaiting reply by the applicant. It is only the action by the examiner which can be suspended under 37 CFR 1.103.***
Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR

1.704(c)(1).

A. Petition Under 37 CFR 1.103(a) with a Showing of Good and Sufficient Cause
A request that action in an application be delayed will be granted only under the provisions of 37 CFR 1.103, which provides for "Suspension of Action." A petition for suspension of action under 37 CFR 1.103(a) must:
(A) be presented as a separate paper,
(B) be accompanied by the petition fee set forth in 37 CFR 1.17(h),
(C) request a specific and reasonable period of suspension not greater than 6 months, and
(D) present good and sufficient reasons why the suspension is necessary.
If the requirements of 37 CFR 1.103(a) are not met, applicants should expect that their applications, whether new or amended, will be taken up for action by the examiner in the order provided in MPEP § 708, Order of Examination.

The petition filed on March 5, 2004 has been **DENIED** for the following reasons:

The petition requests suspensions for both US Application 09/891,757 filed June 26, 2001 and PCT application serial number PCT/US03/02250 filed January 27, 2003 in a single paper instead of a separate paper, failed to include the petition fee as set forth in 37 CFR 1.17(h), the date of receipt of the petition was within the time period of an outstanding office action mailed on January 14, 2004 awaiting a response from the applicant and a review of the reasons presented to justify a suspension has not been deemed persuasive as to warrant a suspension since such arguments are merely unsubstantiated allegations that do not touch on the merits of the case.

Further 37 CFR 1.3 states:

§ 1.3 Business to be conducted with decorum and courtesy.
Applicants and their attorneys or agents are required to conduct their business with the Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by the Commissioner's direct order. ***Complaints against examiners and other employees must be made in correspondence separate from other papers***

Applicant's complaint against Examiner Price should be made in a correspondence separate from other papers.

The petition filed on May 2, 2003 has been **DENIED** for the following reasons:

The petition failed to include the petition fee as set forth in 37 CFR 1.17(h), the date of receipt of the petition was within the time period of an outstanding office action mailed on August 12, 2003 awaiting a response from the applicant and a review of the reasons presented to justify a suspension has not been deemed persuasive as to warrant a suspension since such arguments are merely unsubstantiated allegations that do not touch on the merits of the case. Applicant's

complaint against Examiner Price should be made in a correspondence separate from other papers as per 37 CFR 1.3.

37 CFR 1.181 states in part:

37 CFR 1.181. Petition to the Commissioner.

"... (g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions."

MPEP 1004 states in part:

1004 Actions Which Require theAttention of a Primary Examiner
There are some questions which existing practice requires the primary examiner to be personally responsible for. The following actions fall in this category:
Final rejection (MPEP § 706.07).
Proposing an interference (MPEP § 2309).
Disposition of an amendment in an application in interference looking to the formation of another interference involving that application (MPEP § 2364.01).
Calling Administrative Patent Judge's attention to a discovered reference which makes a claim corresponding to a count unpatentable (37 CFR 1.641, MPEP § 2341).
Rejection of a previously allowed claim (MPEP § 706.04).
Classification of allowed cases (MPEP § 903.07).
Holding of abandonment for insufficient reply (MPEP § 711.03(a)).
Suspension of examiner's action (MPEP § 709).
Treatment of newly filed application which obviously fails to comply with 35 U.S.C. 112 (MPEP § 702.01).
Consideration of the advisability of a patentability report (MPEP § 705.01(a)).
Withdrawal of final rejection (MPEP § 706.07(d) and § 706.07(e)).
All examiner's answers on appeal (MPEP § 1208).
Decision on reissue oath or declaration (MPEP § 1414).
Decision on affidavits or declarations under 37 CFR 1.131 (MPEP § 715.08) and under 37 CFR 1.132 (MPEP § 716).
Decision as to acceptance of amendments, statements, and oaths or declarations filed under 37 CFR 1.48 (MPEP § 201.03).
International Preliminary Examination Reports (MPEP § 1879)

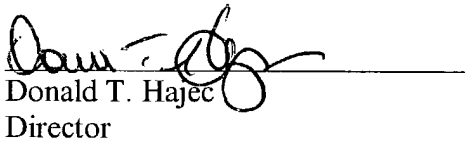
The petitions filed September 2, 2003, March 1, 2003 and March 7, 2003, have all been **DENIED** for the following reasons:

The petitions all failed to include the petition fee as set forth in 37 CFR 1.17(h), a review of the reasons presented to justify a suspension has not been deemed persuasive as to warrant a

suspension since such arguments are merely unsubstantiated allegations that do not touch on the merits of the case and applicant's complaint against Examiner Price should be made in a correspondence separate from other papers. As noted above, Primary Examiner Price did not "raise his personal authority" since the Commissioner under 37 CFR 1.181(g) had delegated the Primary Examiner to decide on "Suspension of examiner's action" petitions.

Decision on petition to invoke Supervisory Review under 37 C.F.R. 1.181

This is in response to the petitions above that have been treated as a request to invoke Supervisory Review under 37 C.F.R. 181 of the decision to deny the suspension under 37 C.F.R. 1.103(a) rendered by Primary Examiner Price in the office action mailed April 8, 2003. As noted above, applicant's reasons presented in the petitions mentioned above all fail to justify good and sufficient reasons for a suspension for cause under 37 C.F.R. 1.103(a). A review indicates that the arguments presented to show cause are merely unsubstantiated allegations that do not touch on the merits of the case to warrant a suspension. Therefore Examiner Price's assessment and decision to deny the petition for suspension under 37 C.F.R. 1.103(a) was proper. It is further noted that Primary Examiner Price did not "raise his personal authority" since the Commissioner under 37 CFR 1.181(g) had delegated the Primary Examiner to decide on "Suspension of examiner's action" petitions (See MPEP 1004). As no impropriety on the part of the examiner has been noted, the petition to invoke Supervisory Review under 37 C.F.R. 1.181 to overrule Primary Examiner Price's decision on applicant's Petition for Suspension of Cause under 37 C.F.R. 1.103(a) is **DENIED**.



Donald T. Hajec
Director
Technology Center 3600
(703) 306-4180
Facsimile: (703) 306-4598
Pmp: 4/26/04

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JAN 06 2005

TECHNOLOGY CENTER 3600

Russell Patton Davis
1521 Quail Pt. Rd.
Viginia Beach, VA 23454

In re Application of:		:	**PETITION UNDER**
	Russell Patton Davis	:	
Serial No.	09/891,757 & PCT/US03/02250	:	**37 C.F.R. 1.103(a)**
Filed:	June 26, 2001 & January 27, 2003	:	
	For: **An Integrated System for Shellfish Production**	:	

This decision is in response to your letters of petition for suspension under 37 CFR 1.103(a) received on July 12, 2004 for both US Application serial number 09/891,757 and PCT/US03/02250. While it has been noted that applicant has presented each petition for suspension under 37 C.F.R. 1.103(a) as a separate paper no new evidence was submitted to show and/or present good and sufficient reasons as to why the suspension was necessary. With the exception of the requirement under 37 CFR 1.103(a) to be on a separate paper, the previous decision mailed on May 18, 2004 stands. Therefore the instant petitions have been **DENIED** for the same reasons set forth in the previous decision mailed on May 18, 2004.

The status of instant application 09/891,757 is abandoned for failure to timely file a proper response to the office action mailed on January 14, 2004. No further correspondence will held until the application has been revived.

Donald T. Hajec
Director
Technology Center 3600
(703) 306-4180
Facsimile: (703) 306-4598
Pmp: 1/5/05

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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL DEPARTMENT
P.O. BOX 450 A
SANTA CLARA, CA 95052

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DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of :
Beer et al : DECISION GRANTING
Application No. 09/891,784 : PETITION
Filed: June 25, 2001 :
Attorney Docket No. 10732-009-999 :

This is a decision on the paper filed September 19, 2001, which is being treated as a petition requesting that the above-identified application be accorded a filing date of June 25, 2001, rather than the presently accorded filing date of June 27, 2001.

Petitioners allege that the application was deposited in Express Mail service on June 25, 2001. In support, the petition is accompanied by a copy of Express Mail receipt No. EL451597155US (the same Express Mail number found on the original application papers located in the official file) showing an official USPS notation dated June 25, 2001.

In view of the above, the petition is granted. The application will be accorded a filing date of June 25, 2001.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of June 25, 2001, and issuance of a corrected filing receipt.

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

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

In re Application of	:	
Ecker, et. al.	:	DECISION ON REQUEST
Application No. 09/891,793	:	TO WITHDRAW FROM
Filed: June 26, 2001	:	RECORD
Attorney Docket No. IBIS0002-100	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on October 24, 2005.

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

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed March 16, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/891,793	06/26/2001	David J. Ecker	IBIS-0368

CONFIRMATION NO. 1490

34138
COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

OC000000019211225

Date Mailed: 06/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2006.

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

ANDREA M SMITH
OP (571) 272-3226

FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,795	06/25/2001	Bin Zhao	12569-04/NEC	1464

7590 11/15/2004

Bin Zhao
Cirvine Corporation
14 Figaro
Irvine, CA 92606

EXAMINER	
CURTIS, CRAIG	
ART UNIT	**PAPER NUMBER**
2872	

DATE MAILED: 11/15/2004

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

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 092104

OCT 26 2004

Norman E. Carte
Rutan & Tucker
611 Anton Blvd., Fourteenth Floor
Costa Mesa, CA 92626

In re Application of:
Zhao
Serial No.: 09/891,795
Filed: June 25, 2001
Attorney Docket No.: **12569-04/NEC**

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 January 26, 2004.

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 Norman E. Carte.

The request is **APPROVED**. There are now no attorney's of record in this application. It is noted that the application is now abandoned.

All future communications from the Office will be directed to, Bin Zhao, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton Laballe at (571) 272-1594.

Clayton Laballe, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Bin Zhao
Cirvine Corporation
14 Figaro
Irvine, CA 92606

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OFFICE OF PETITIONS

In re Application of :
DeBarag N. Banerjee :
Application No. 09/891,798 : DECISION ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. US018086 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 17, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 17, 2006. Accordingly, the date of abandonment of this application is November 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the previously submitted payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAR 1 8 2004

Technology Center 2100

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Stutz et al.
Application No. 09/891,821
Filed: January 26, 2001
For: METHODS AND APPARATUS FOR EXTENDIBLE INFORMATION AGGREGATION AND PRESENTATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 04, 2004.

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

The request filed March 04, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

JRM

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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Paper No. 8

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAILED

MAR 3 1 2004

Technology Center 2100

In re Application of:
William STUTZ, et al.
Application No. 09/891,822
Filed: June 26, 2001
For: METHODS AND APPARATUS FOR LOAD BALANCED INFORMATION AGGREGATION AND PRESENTATION

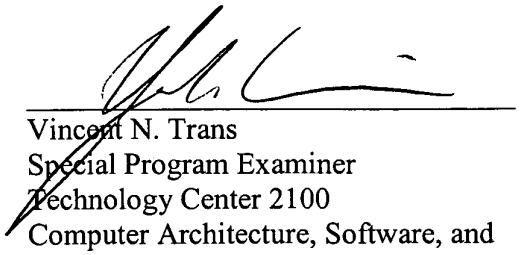
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 4, 2004.

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

The request is **GRANTED.**

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



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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DARBY & DARBY, PC
805 THIRD AVENUE
NEW YORK, NY 10022

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DEC 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 6,911,341 :
Issue Date: June 28, 2005 :
Application No. 09/891,865 : NOTICE
Filed: June 25, 2001 :
Attorney Docket No. 2901/J410 :

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

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WASHINGTON, D.C. 20231
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JJGJr.:07-02

Paper 9

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK NY 10022

In re Application of
Cote, et al.
Application No. 09/891,875
Filed: 25 June, 2001
Attorney Docket No. 3795/0J514US0

: DECISION REFUSING
: STATUS UNDER
: 37 C.F.R. §1.47(a)

This is a decision on the petition under 37 C.F.R. §1.47(a),[1] filed on 16 March, 2002, and supplemented via FAX on 30 July, 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 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

Failure to respond will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 25 June, 2001, without an executed oath or declaration for the first-named inventor Harold Côté (Mr. Côté);
- accordingly, a Notice to File Missing Parts of Application was mailed on 17 August, 2001, requiring an executed oath or declaration, and a surcharge for the late filing;
- counsel filed concurrently with the petition the fee, the surcharge for late filing, and certain correspondence (letter of 23 July, 2001, Email of 26 July, 2001, and letter of 20 September, 2001), however, rather an evidencing the pertinent facts establishing that the inventor was first presented with a copy of the complete application, yet refuses to sign or

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

cannot be found or reached after diligent effort,[2] the materials demonstrate that only the oath/declaration and an assignment document were submitted to Mr. Côté.

ANALYSIS

Petitioner has failed to establish that the inventor has been presented with the full application and has refused to sign the declaration (the proof of the pertinent events must be made by a statement of someone with first hand knowledge of the events with support of the registered practitioner prosecuting this matter) or cannot be reached.

A copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached. Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3]

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

By mail:	Commissioner of Patents and Trademarks Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202

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

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] The submission should include: (a) a declaration of the registered attorney(s)/agent(s) and other authority(ies) attempting the contact, outlining the efforts and the results; and (b) documentation (such as a copy of the transmittal letter(s) and delivery disposition document(s) supporting that (those) declaration(s).

[3] See: MPEP 409.03(b).

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JJGJr: 02-04

Paper No: 9

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

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OFFICE OF PETITIONS

In re Application of:
Cote, et al.
Filed: 25 June, 2001
Application No. 09/891,875
Docket No.: 03795/000J514-US0

ON PETITION

This is a decision on the petition submitted on 12 December, 2003, to withdraw the holding of abandonment, and properly considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

A review of the record reveals:

- it appeared that Petitioner failed to respond timely and properly to Confirming Letter Regarding a Request for Information mailed on 7 March, 2003, with reply due on or before 12 March, 2003;
- the instant application went abandoned after midnight 12 March, 2003;
- Notice of Abandonment was mailed on 17 November, 2003;
- on 12 December, 2003, Petitioner filed, inter alia, a request for withdrawal of the holding of abandonment, along with documents purporting to be a copy of the reply (confirmation of translation) with a FAX transmission certificate and transmission confirmation dated 10 March, 2003).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to the Request to Withdraw the Holding of Abandonment

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

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[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

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

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

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

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

of a holding of abandonment.[7]

Petitioner contends and evidences timely reply.

CONCLUSION

Accordingly, Petitioner satisfied the burdens set forth in Delgar v. Schulyer, and the petition under 37 C.F.R. §1.181 hereby is **granted** and the 17 November, 2003, Notice of Abandonment is **vacated** and fees in connection with this petition are waived.

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

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

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

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JJGJr: 02-04

Paper No: 15

HAROLD CÔTÉ
1728 RUE ST-CHRISTOPHE
MONTREAL
QUEBEC
CANADA H2L 3W8
via Air Mail

COPY MAILED
MAR 0 5 2004
OFFICE OF PETITIONS

In re Application of:
Côté, et al.
Filed: 25 June, 2001
Application No. 09/891,875
Docket No.: 03795/000J514-US0

CORRESPONDENCE

Dear Harold Côté:

You are named as 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 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 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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

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JJGJr: 02-04

Paper No: 14

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

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OFFICE OF PETITIONS

In re Application of: :
Côté, et al. :
Filed: 25 June, 2001 : ON PETITION
Application No. 09/891,875 :
Docket No.: 03795/000J514-US0 :

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 4 December, 2002, supplemented (in reply to a Request for Information) via FAX on 10 March, 2003.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 25 June, 2001, without an executed oath or declaration;
- accordingly, a Notice to File Missing Parts of Application was mailed on 17 August, 2001, requiring an executed oath or declaration, and a surcharge for the late filing;
- the original petition (with fee, surcharge for late filing, correspondence and oath/declaration signed by the co-inventor Stephan Giard (Mr. Giard) on behalf of himself and the first named inventor Harold Côté (Mr. Côté) but unsigned by Mr. Harold Côté) was dismissed on 1 August, 2002, for failing to make the required showing under 37 C.F.R. §1.47(a) of an attempt to present/deliver the entire application to Mr. Harold Côté;
- the renewed petition required a request for information, which–though timely submitted was not matched with the file until after the application was deemed abandoned on 17

November, 2003;

- a 12 December, 2003, request to withdraw the holding of abandonment was granted on 20 February, 2004;

- with that 12 December, 2003, petition and its attachments–including copies of documents submitted via FAX on 10 March, 2003–Petitioner has shown proprietary interest/irreparable harm and that, while inventor Mr. Giard has signed the oath/declaration, the non-signing inventor **Mr. Côté** has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Alphonso A. Collins (Reg. No. 43,559) and that of his colleague Gwendoline Bruneau establish that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

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 forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3700 for further processing in due course.

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

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

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SEP 2 2005

BRADLEY N. RUBEN, PC
463 FIRST STREET
SUITE 5A
HOBOKEN NJ 07030-1859

In re Application of	:	
J. Voorhees	:	
Serial No.: 09/891,881	:	PETITION TO MAKE SPECIAL
Filed: June 26, 2001	:	
Attorney Docket No.: 100UM-010A	:	

This is in response to applicant's petition filed on August 24, 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 11

Michael A. Morra
Suite 2H-02
2000 Northeast Expressway
Norcross, GA 30071

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FEB 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Chang et al. :
Application No. 09/891,900 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. 2-8-23 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed December 3, 2003, which set a shortened statutory period for reply of (1) One Month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 4, 2004.

The application file is being forwarded to Technology Center AU 1731 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

Clifford Chance Rogers & Wells LLP
200 Park Avenue
New York, NY 10166-0153

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JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of :
William Martin :
Application No. 09/891,945 : DECISION REFUSING STATUS
Filed: June 26, 2001 : UNDER 37 CFR §1.47(b)
Title: TRADE ALLOCATION :

This is in response to the petition under 37 CFR §1.47(b), filed March 5, 2002 (certificate of mailing February 8, 2002).

The petition under 37 CFR §1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on June 26, 2001, without an executed oath or declaration and naming William Martin, Matt Smith and Susan Estes as joint inventors. Accordingly, on August 16, 2001, applicants were mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under §1.136(a).

With the instant petition, petitioner submitted an unexecuted declaration identifying William Martin as the sole inventor, and paid the surcharge for late filing. To make the reply time, the petition was accompanied by a petition for extension for response within the fourth month (and fee). A declaration signed by less than all of the inventors is not a proper reply to the Notice of Missing Parts, except as provided for in §§ 1.42, 1.43, 1.47, or §1.67. Applicant maintains that status under 37 CFR §1.47(b) is proper because the proper inventive entity is sole inventor, William Martin, and inventor Martin has refused to execute the declaration. In support thereof, petitioner submits the declaration of patent paralegal Melissa Scanzillo.

§1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who

> otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

See 35 U.S.C. §118; 37 C.F.R. §1.47; §§409.03 and 605 of the *Manual of Patent Examining Procedure* (8th ed)(Rev. 1, Aug. 2001)(MPEP).

The instant petition lacks requirements (1), (2), (3), (6) and (7):

As to items (1) and (2),

The declaration submitted is not executed by anyone on behalf of inventor Martin. The petition does not make clear who is making application for patent on behalf of inventor Martin (i.e. who is the rule 47(b) applicant). A declaration for patent offered pursuant to §1.47(b) must be properly executed by the rule 47(b) applicant.

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the

attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. See MPEP 409.03(b).

As to item (3),

Petitioner submits the declaration of patent paralegal Scanzillo with supporting exhibits to show refusal on the part of inventor Martin to join in the application.

This declaration is not sufficient to show refusal. See MPEP 409.03(d). Petitioner has not thereby shown that inventor Martin, by his conduct, has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The declaration and supporting documentation only support a conclusion that the PCT power of attorney, combined declaration and power of attorney, and assignment were sent to inventor Martin. 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. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Martin and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Additionally, on the instant evidence, a conclusion that inventor Martin's failure to respond constitutes refusal cannot be inferred. The evidence does not support a conclusion that inventor Martin received the messages and the letters and thus, has by his conduct refused to join in the application. Petitioner has not provided copies of signed Federal Express receipts to show that inventor Martin received the declaration. Nor does petitioner provide evidence of conversations or E-mail

communications in which inventor Martin acknowledges receipt of any application papers (or states his refusal to join in the application).

On renewed petition, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Thus, on renewed petition, a new declaration of facts from Ms. Scanzillo or other proper party, such as the person(s) who presents the application papers and/or the person(s) who is the recipient of any oral or written refusal, is required.

As to item (6),

Rule 47(b) applicant must prove that, as of the date the application was deposited in the United States Patent and Trademark Office, (a) the invention had been assigned to the applicant, or (b) the inventor had agreed in writing to assign the invention to the applicant, or (c) the applicant otherwise had sufficient proprietary interest in the subject matter to justify filing of the application.

If inventor Martin agreed in writing to assign the invention described in this application and deposited pursuant to 37 C.F.R. §1.47(b), a copy of that agreement should be submitted. If the invention has not been assigned, or if there is no written agreement to assign, the rule 47 applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state or foreign) would by the weight of the authority in the jurisdiction award title of the invention to the rule 47 applicant. The facts in support of any conclusion that a court would award title to the rule 47 applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patent Quarterly) relied on to demonstrate a proprietary interest should be made of record. See MPEP 409.03(f).

As to item (7),

Petitioner makes no assertion. On request for reconsideration, rule 47 applicant must submit proof of irreparable damage. See MPEP §409.03(g).

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiencies and provide a 1.47 petition in compliance with all applicable law.

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: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 11

Clifford Chance Rogers & Wells LLP
200 Park Avenue
New York, NY 10166-0153

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
William Martin
Application No. 09/891,945
Filed: June 26, 2001
Title: TRADE ALLOCATION

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b) MOOT
and
DECISION ON PETITION UNDER 37 CFR 1.48(f)(1)

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(b)," filed August 20, 2002.

The petition under §1.47(b) is **DISMISSED AS MOOT**.

The petition under §1.48(f)(1) is **GRANTED**.

The above-identified application was filed on June 26, 2001, without an executed oath or declaration and naming William Martin, Matt Smith and Susan Estes as joint inventors. Accordingly, on August 16, 2001, applicants were mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under §1.136(a).

In reply, applicants timely filed the initial petition under §1.47(b), asserting that William Martin was the sole inventor and that he refused to join in the application. This petition was dismissed for failure to submit an acceptable oath or declaration; failure to provide sufficient proof that the non-signing inventor Martin refused to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); failure to show sufficient proprietary interest in the subject matter to justify filing of the application; and failure to submit proof of irreparable damage. (Decision mailed June 24, 2002). This decision set a two-month period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

On instant request for reconsideration, timely filed, petitioner submitted a declaration executed by sole inventor Martin. This declaration has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the sole inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The petition fee for consideration under §1.48 has been charged to petitioner's Deposit Account, as authorized. The declaration submitted is the first executed declaration of record and is found sufficient to correct inventorship pursuant to §1.48(f). Please find enclosed a corrected filing receipt reflecting the correction of inventorship.

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

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

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

Enclosure: Corrected Filing Receipt (2 pages).

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ALEXANDRIA, VA 22313-1450
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JUL 29 2004

Paper No. 16

In re Application of
William P. Apps
Application No. 09/891,948
Filed: June 25, 2001
Attorney Docket No. RPC 0555 PUS

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on June 28, 2004 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 final Office action dated October 9, 2003. 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 timely and reply to the Office letter in question was actually filed December 12, 2003. Petitioner has supported this allegation by furnishing a copy of the reply, which is a Notice of Appeal and the fee therefor, and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on December 12, 2003, a date within the period set for filing a reply to the Office letter in question. Therefore, it is clear that this application is not abandoned. Office financial records show that the fee for the Notice of Appeal was received and processed.

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 Notice of Appeal filed on December 12, 2003.

Further, Office financial records show that on April 15, 2004, a fee for the filing of an appeal brief, together with the fee for a two month extension of time. However, these papers are not in the application file. The Head Supervisory Applications Examiner should have these papers searched for, and if they cannot be found, should contact counsel in order to obtain copies with a copy of counsel's post card receipt for these papers (or other evidence of timely filing). After entry of the appeal brief, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Konstantine J. Diamond
4010 E. 26th Street
Los Angeles, CA 90023

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AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

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OFFICE OF PETITIONS

In re Application of :
Hamzeh Karami et al :
Application No. 09/891,976 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. JWB-2001-10-P :

This is a decision on the petition, filed June 2, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed Application No. 09/376,282, filed August 18, 1999 is required in addition to the RCE and the amendment submitted with the petition on June 2, 2004.

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

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

Central Fax: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

Karen Creasy

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

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C/M: 34304/113 (MH:km)
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OFFICE OF PETITIONS

KENNETH P. GEORGE
AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

In re Application of :
Hamzeh Karami et al :
Application No. 09/891,976 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. JWB-2001-10-P :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1734 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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OFFICE OF PETITIONS

In re Application of :
Michael Roscoe et al. :
Application No. 09/891,978 : DECISION ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. Hartford-4 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 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 June 24, 2006.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on December 19, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the petitioner's Deposit Account No. 50-3208.

Telephone inquiries concerning this decision should be directed to Jean Duverne at (571) 272-6051 or in his absence to the undersigned Examiner.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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Los Altos Hills, CA 94022

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In re Patent of	:	
Tseng et al.	:	
Application No. 09/892,014	:	DECISION
Filed: June 25, 2001	:	ON PETITION
Attorney Docket Number: TSENG-8901	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b), filed March 24, 2006.

The petition is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 24, 2004. The Office action set a three (3) month period for reply. No timely and proper reply having been filed, this application became abandoned May 25, 2004. A Notice of Abandonment was mailed April 5, 2005.

Applicant filed an improper CPA on August 24, 2004, wherein Applicant stated that the extension fee would be paid after Applicant received a Filing Receipt.

Applicable Law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a reply to the action. Applicant must respond to the Office action.

Applicant is advised that CPA practice no longer applies to utility applications filed on or after July 14, 2003.

The MPEP 706.07(h) IV, IMPROPER CPA TREATED AS RCE, provides that

> 37 CFR 1.53(d)(1) has been amended to provide that CPA practice under 37 CFR 1.53(d) does not apply to utility and plant applications. Effective July 14, 2003, a CPA may only be filed if the prior nonprovisional application is a design application that is complete as defined by 37 CFR 1.51(b). In the event that an applicant files a request for a CPA (on or after July 14, 2003) of a utility or plant application that was filed on or after June 8, 1995, the Office will automatically treat the improper CPA as an RCE of the prior application (identified in the request for CPA) under 37 CFR 1.114. If the CPA does not satisfy the requirements of 37 CFR 1.114 to be a proper RCE (e.g., lacks a submission under 37 CFR 1.114(b), or is not accompanied by the fee set forth in 37 CFR 1.17(e)), the improper CPA will be treated as an improper RCE, and the time period set in the last Office action (or notice of allowance) will continue to run. If the time period (considering any available extension under 37 CFR 1.136(a)) has expired, the applicant will need to file a petition under 37 CFR 1.137 (with the lacking submission under 37 CFR 1.114(b) or fee set forth in 37 CFR 1.17(e)) to revive the abandoned application.

Analysis

Here, Applicant filed an improper CPA request, which was treated as a Request for Continued Examination under 37 CFR 1.114. However, a RCE requires a fee, and as such, the RCE was improper. Applicant files the instant petition and fee; however, Applicant still has not filed the RCE fee ($395.00).

Applicant must submit the RCE fee before the petition may be granted. The application is abandoned, and no extension of time (or fee) is available.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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In re Application of	:	
Tseng et al.	:	
Application No. 09/892,014	:	ON PETITION
Filing Date: 06/25/2001	:	
Attorney Docket Number:	:	
TSENG-8901	:	

This is a decision on the Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 8, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the final office action, mailed February 24, 2004. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed an improper CPA on August 24, 2004, in response to the Office action, and stated that the extension of time fee would be paid after Applicant received a filing receipt[1]. Applicant was notified of the improper CPA filing on October 1, 2004. A Notice of Abandonment was mailed April 5, 2005.

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on March 24, 2006, and stated in the petition that the reply "was enclosed herewith"; however, still did not submit the RCE fee.

The petition was dismissed in a Decision mailed June 23, 2006. The Decision dismissing the petition advised Applicant of the improper RCE filing, and required the RCE fee.

The present Petition

Applicant files the instant petition and includes the RCE fee. Applicant has also included an additional "petition fee" of $130.00.

[1] The CPA did not include the Request for Continued Examination (RCE) fee under 37 CFR 1.114.

Applicant is advised that the petition fee for the petition under 37 CFR 1.137(b) was previously submitted with the original petition. The petition fee is not required in a request for reconsideration. Applicant is also advised that the petition fee submitted ($130.00) is not the fee for a petition to revive an application either under 37 CFR 1.137(a) or (b). Applicant is advised to consult the fee schedule at www.uspto.gov for a listing of current Office fees. Applicant may request a refund of the $130.00 "petition fee" by writing to the Office of finance, Refund Section, and including a copy of this Decision.

This application is being referred to Technology Center Art Unit 1743 for processing of the RCE, filed August 24, 2004, and amendment, filed August 8, 2006.

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

Derek L. Woods
Attorney
Office of Petitions

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Paper No. 6

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

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OFFICE OF PETITIONS

In re Application of :
Bachur Jr., et al. :
Application No. 09/892,061 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. P-5026 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 16, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2001.

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

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

Latrice Bond

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

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OFFICE OF PETITIONS

In re Patent No. 6,851,193 :
Issued: February 8, 2005 :
Application No. 09/892,096 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket Number: 66042-9223-01 :

This is a decision on the petition filed August 17, 2006, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

A request for certificate of correction was filed May 31, 2006 but was not in compliance with 37 CFR 3.81 and therefore was dismissed in a decision mailed June 20, 2006.

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.

Comes now Petitioner stating that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent in that the assignment was recorded with the parent application, application no. 09/133,728. Further, petitioner has included the processing fee in the amount of $130.00 as set forth in § 1.17(i).

---

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

In view thereof, and since Office assignment records reflect that MILWAUKEE ELECTRIC TOOL CORPORATION is the assignee of record, the request complies with the provisions of 37 CFR 3.81(b) and it is therefore appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

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 file 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
WASHINGTON, D.C. 20231
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Paper No. 4

BRETT HALL
4206 LAZY CREEK DRIVE
MARIETTA GA 30066

COPY MAILED

AUG 1 3 2001

OFFICE OF PETITIONS

In re Reissue Application of:
Hall
Re. Serial No. 09/892,185
Filed: June 26, 2001, 2000
Original Patent No. 6,223,125
Original Issue Date: April 24, 2001
For: COLLISION ADVANCE SYSTEM

DECISION DISMISSING
PETITION
TO WAIVE TWO MONTH DELAY

This is a decision on the petition under 37 CFR 1.183, filed July 18, 2001, to Waive Two-Month Delay Period imposed by former 37 CFR 1.176.

The petition to waive the two month delay period set forth in 37 CFR 1.176 is dismissed as moot, as that rule was amended, effective November 8, 2000, to eliminate the two month delay period. See 675 *Fed. Reg.* 54604 at 54645 (Sep. 8, 2000). Thus, there is no longer a delay period to waive. Any request for refund of the petition fee should be addressed to the Technology Center during the examination process.

This reissue application is being returned to the Office of Initial Patent Examination (OIPE) for further processing. Telephone inquiries related to that processing should be directed to the OIPE hotline at (703) 308-1202.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

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
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TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

COPY MAILED
MAR 16 2010

In re Patent No. 6,874,127	:	
Issue Date: March 29, 2005	:	
Application No. 09/892,198	:	NOTICE
Filed: June 25, 2001	:	
Attorney Docket No. 294438001US1	:	

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: EDMUND J. WALSH
WOLF, GREENFIELD & SACKS, PC
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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Alexandria, VA 22313-1450
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KENT A. FISCHMANN, Esq.
MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGH WAY
SUITE 411
AURORA, CO 80014

MAILED

MAR 12 2005

Technology Center 2100

In re Application of: Green, et al.
Application No. 09/892,204
Filed: June 26, 2001
For: METHOD AND APPARATUS FOR NORMALIZING AND CONVERTING STRUCTURED CONTENT

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

This is a response to the petition filed June 21, 2004, under 37 C.F.R. §1.102(d) to make the above-identified application special. A fee under 37 CFR 1.17(h) accompanied the petition submission.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Subparagraphs I - XII set out the prerequisites for a grantable petition for Advanced Examination under 37 C.F.R. §1.102(d), which states in relevant part:

37 CFR 1.102. Advancement of examination.
(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.<
(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.
(c) A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.
(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

New applications ordinarily are taken up for examination in the order of their effective United States filing dates. Certain exceptions are made by way of petitions to make special, which may be granted under the conditions set forth in MPEP §708.02, subparagraphs I - XII.

The petition filed June 21, 2004 fails to adequately meet the requirements of MPEP §708.02 and the criteria set forth above. Petitioner has failed to provide identification of the appropriate subparagraph on which the petition to make special is to be considered (subparagraph I – XII), along with the corresponding criteria of such identified subparagraph i.e. the petition filed June 21, 2004 is incomplete. Thus, the petition to make special for the instant application, fails to show, in the opinion of the Director, justification for advancement out of turn.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

BLJ: 3/1/05

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

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

COPY MAILED

AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of:
David G. Turek, Jon Y. Saferstein
and Lisbeth J. Schaibly
Application No. 09/892,205
Filed: June 26, 2001
Title of Invention: METHOD AND APPARATUS FOR ESTABLISHING A CUSTOMIZED ELECTRONIC SITE

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 January 7, 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, David G. Turek, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. David G. Turek
23135 Park Contessa
Calabasas, CA 91302

COPY MAILED

AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of:
David G. Turek, Jon Y. Saferstein
and Lisbeth J. Schaibly
Application No. 09/892,205
Filed: June 26, 2001
Title of Invention: METHOD AND
APPARATUS FOR ESTABLISHING A
CUSTOMIZED ELECTRONIC SITE

LETTER

Dear Mr. Turek:

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: BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-161

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of
Turek, Saferstein, & Schaibly
Application No. 09/892,205
Filed: June 26, 2001
Attorney Docket No. 2437/103
For: METHOD AND APPARATUS FOR ESTABLISHING A CUSTOMIZED ELECTRONIC SITE

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 3, 2002 by nonsigning inventor Turek, requesting that "all further correspondence regarding application 09892205 be required to include my signature in my own capacity."

On August 2, 2002, the Office granted Rule 47 status to the above-identified application. Inventor Turek was mailed a letter informing him of this fact and the options available to him as a nonsigning inventor.

Petitioner filed a declaration with the instant petition. The format of the declaration is one used in conjunction with an application data sheet. Unfortunately, the above-identified application was not filed with an application data sheet. As a result, the declaration filed on September 3, 2002 does not meet the requirements of 37 CFR 1.63. Petitioner has not joined in the filing of the application. Nevertheless, the Office will retain it in the file of the above-identified application.

Regarding petitioner's request to play a role in the prosecution of the above-identified application, petitioner's attention is directed to the Manual of Patent Examining Procedure (MPEP) 409.03(I). This section addresses the rights of the nonsigning inventor. It states, in pertinent part, "A nonsigning inventor is not...entitled to prosecute the application if status under 37 CFR 1.47 has been accorded... Even if the nonsigning inventor joins in the application, he or she cannot revoke or give a power of attorney without agreement of the 37 CFR 1.47 applicant."

The signing inventors appointed attorneys in their declaration, filed January 7, 2002. This power of attorney was effective when Rule 47 status was accorded to the above-identified application. 37 CFR 1.33 states that when an attorney has been appointed, the Office will not engage in dual correspondence with the attorney and an inventor. A copy of this decision will be mailed to petitioner. All future correspondence will be mailed to the correspondence address of record.

Petitioner states that he filed the petition in order to ensure that his interests are properly and effectively represented. It is the Office's position that the rights of a nonsigning inventor are protected by the fact that in an application filed under 37 CFR 1.47(a) and 35 USC 116, the nonsigning inventor has the same rights that he would have if d he had joined in the application. *In re Hough*, 108 USPQ 89 (Comm'r Pat. 1955).

As stated in the August 2, 2002 letter to petitioner, petitioner is entitled to inspect any paper in the file wrapper of the application, order copies of all or any part of the application file, and make his position of record in the application. In addition, if petitioner feels that he is the sole inventor of the invention, he may file his own application and request that his application be placed in interference with the above-identified application. If the claims in both petitioner's and the above-identified application are otherwise found allowable, an interference may be declared. While petitioner may do all these things, petitioner, as a nonsigning inventor, may not prosecute the above-identified application.

Accordingly, the petition under 37 CFR 1.182 is **DISMISSED**.

The Application is being returned to Technology Center 3600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: DAVID TUREK
23135 PARK CONTESSA
CALABASAS CA 91302

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

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
Story et al. :
Application Number: 09/892211 :
Filing Date: 06/25/2001 :
Attorney Docket Number: :
80293/33 :

DECISION ON PETITION

This is a decision on the petition filed on April 9, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on August 20, 2006, for failure to file a timely submit a reply to the final Office action mailed on May 19, 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. Notice of Abandonment was mailed on April 9, 2007.

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

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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 Director may required additional information where there is a question whether the delay was unintentional; and

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Receipt of the revocation and power of attorney and change of correspondence address filed on April 9, 2008 is acknowledged. All correspondence will be mailed to the new address of record. A Notice of acceptance of the power of attorney will be mailed under separate cover.

This application is being referred to Technology Center Art Unit 2153 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

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA, CA 95052

In re Application of Kaushal et al. :
Application No. 09/892,212 : Decision on Petition
Filing Date: June 25, 2001 :
Attorney Docket No. 005231ALRT/ETCH/DRIE :

This is a decision on the petition under 37 CFR 1.181, filed May 23, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed July 28, 2004.

The non-final Office action set a shortened statutory period for reply of three (3) months.

The Office failed to receive a reply to the non-final Office action.

A Notice of Abandonment was mailed February 23, 2005.

Petitioner contends, and has established, non-receipt of the non-final Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new non-final Office action will be mailed and the period for reply will be re-started.

Technology Center Art Unit 1775 will be informed of the instant decision. Thereafter, the Technology Center will mail a new non-final Office action. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 27 2010

OFFICE OF PETITIONS

APPLIED MATERIALS, INC.
P.O. BOX 450A
SANTA CLARA CA 95052

In re Application of :
KAUSHAL et al. :
Application No. 09/892,212 : ON APPLICATION FOR
Filed: 06/25/2001 : PATENT TERM ADJUSTMENT
Docket No. 005231 ALRT/ETCH/DRIE :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed December 2, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is a minimum of 2,302 days ("which may be extended or reduced based on the actual date of issuance of a patent"), not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior 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. 6 **MAIL**

MAY 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Joseph I. Chamdani, et al.
Application No.: 09/892,216
Filed: June 25, 2001
For: PACKET SWITCHING APPARATUS INCLUDING CASCADE PORTS AND METHOD FOR SWITCHING PACKETS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed March 25, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The 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 listed under customer number 22830 have been withdrawn, leaving no attorneys remaining in the application.

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

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

cc: Bart Showalter
Baker Botts LLP
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
www.uspto.gov

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

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Vrotacoe et al. :
Application No. 09/892,253 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 600.1139 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 23, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 24, 2004.

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

The file is now being forwarded to the Publishing Division for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS
ATTN: STEVEN J ROCCI
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA, PA 19103

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DEC 1 1 2001

OFFICE OF PETITIONS

In re Application of	:	
Paul England et al	:	DECISION GRANTING
Application No. 09/892,298	:	PETITION
Filed: June 27, 2001	:	
Attorney Docket No. MSFT-0279/ 48585.1	:	

This is a decision on the petition under 37 CFR 1.10(c) filed August 20, 2001, requesting that the above-identified application be accorded a filing date of June 27, 2001, rather than the presently accorded filing date of June 28, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on June 27, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL650276177US, showing a Date-In of June 27, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of June 27, 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 June 27, 2001.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2131 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 14

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of Xu et al. :
Application No. 09/892,307 : Decision on Petition
Filing Date: June 26, 2001 :
Attorney Docket No. 2001B068 :

This is a decision on the petition under 37 CFR 1.181, filed August 2, 2006, to withdraw the holding of abandonment.[1]

The petition is **granted.**

A non-final Office action was mailed October 7, 2002.

The Office action set a shortened statutory period for reply of three (3) months.

A reply to the Office action was not matched with the file. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Therefore, the application was deemed abandoned as of January 8, 2003.

A Notice of Abandonment was mailed May 30, 2003.

Petitioner contends a reply was timely filed on January 6, 2003. Petitioner has supplied a copy of the reply. The reply bears a proper certificate of mailing in compliance with the requirements of 37 C.F.R. 1.8(a). The petition complies with the requirements set forth in 37 CFR 1.8(b). In view thereof the reply is considered timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1764 will be informed of the instant decision and the examiner will consider the merits of the copy of the amendment filed August 2, 2006, in due course.

---

[1] The original petition filed July 16, 2003, cannot be located in the file. Therefore, this decision is based on the copy of the petition supplied on August 2, 2006.

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

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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Paper No. 3

MAIL

MAR 2 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306

In re Application of: Alan Carwile et al.
Application No. 09/892,322
Filed: June 26, 2001
For: MANAGEMENT OF MULTIPLE NETWORK DEVICES USING UNSIGNED JAVA APPLETS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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.

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

cc: Keith Lutsch, Esq.
Wong, Cabello, Lutsch, Rutherford & Brucculeri
Chasewood Technology Center
20333 SH 249, Suite 600
Houston, Texas 77070

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THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON NJ 08543-5312

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald Henry Willis	:	
Application No. 09/892,347	:	DECISION GRANTING PETITION
Filed: June 27, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PU010055	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of June 21, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2629 to consider the amendment of June 21, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Robert C. Ryan
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

MAR - 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Ewing et al.
Application No. 09/892,350
Attorney Docket No. 7273-70200-01
Filed: June 26, 2001
For: POWER MANAGER CONFIGURATION UPLOAD AND DOWNLOAD METHOD AND SYSTEM FOR NETWORK MANAGERS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed February 14, 2005, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Carrel W. Ewing, is over sixty five (65) years of age.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for expedited prosecution.

for James R. Matthews

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,779,631	2004-08-24	09/892,381	2001-06-26	13377/93633-00

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/bruce r. bartlett/	Date (YYYY-MM-DD)	2009-12-10
Name	Bruce R. Bartlett		
Enter Reel and Frame Number		Remove	
Reel Number	012065	Frame Number	0098
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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In re Patent No. 6779631
Issue Date: August 24,2004
Application No. 09892381
Filed: June 26,2001
Attorney Docket No. 13377/93633-00

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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James H. Takemoto
ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale, NJ 08801-0900

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MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Cody, et al. :
Application No. 09/892,383 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No.: JHT-0104 :

This decision is in response to the petition under 37 CFR 1.137(b) filed January 16, 2004.

The petition is GRANTED.

This application became abandoned October 29, 2003 for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due ("Notice") mailed July 28, 2003. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed December 10, 2003.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit issue fee is accepted as having been unintentionally delayed.

This application will be forwarded to publishing for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 12

Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Randy Prager, et. al. :
Application No. 09/892,385 : ON PETITION
Filed: June 26, 2001 :
Attorney Docket No. 1584/65397 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

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

The petition is **GRANTED**.

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 $1,020 extension of time submitted with the petition on December 20, 2004 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 Technology Center Art Unit 2167, for review of the amendment filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Terry J. Anderson, Esq.
NORTHROP GRUMMAN CORPORATION
1840 Century Park East
Los Angeles, CA 90067-2199

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of

Ayala, et al.

Application No. 09/892,390

Filed: June 27, 2001

Attorney Docket No. NORTH-452A/A-2355

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on January 9, 2004.

The amendment and Information Disclosure Statement filed June 9, 2005, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2635 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM Corporation
Intellectual Property Law. Dept. 917/Bldg. 006-1
3605 Highway 52 North
Rochester, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Royan Herbert Bartley	: DECISION ON REQUEST FOR
Patent Number	: 7596617	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/892,435	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2483** 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. 8

SHAPIRO COHEN
STATION D
P.O. BOX 3440
OTTAWA, ON K1P 6P1
CANADA

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Bernard Y. Malo :
Application No. 09/892,469 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 702P03US-1 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 15, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 16-0600 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

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

The application file is being forwarded to Technology Center AU 2877.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

SHAPIRO COHEN
P.O. BOX 3440
STATION D
OTTAWA, ON
K1P 6P1 CANADA

AIRMAIL

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Bernard Y. Malo :
Application No. 09/892,472 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 702P06US-1 :

This is a decision on the petition under 37 CFR 1.173(b), filed November 23, 2003 and March 11, 2005, to revive the above-identified application.[1]

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 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 March 20, 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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 19, 2002 is accepted as having been unintentionally delayed.

The Associate Power of Attorney filed on March 28, 2004 cannot be entered since it was not sign by an agent or attorney of record. Note MPEP 402.02 & 405.

Pursuant to petitioner's authorization, Deposit Account No. 16-0600 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

[1] The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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

This file is being forwarded to Technology Center AU 2874.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 092504

MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

SEP 28 2004

In re Application of Toru Hosoi
Application No.: 09/892,500
Filed: June 28, 2001
Attorney Docket No. PNDF-01095

WITHDRAWAL FROM ISSUE
37 CFR 1.313

This is a decision on the petition filed September 9, 2004, requesting that the above-identified application be withdrawn from issue for consideration of the Request for Continued Examination and the Information Disclosure Statement filed herewith. See 37 C.F.R. § 1.313.

The petition to withdraw from issue is GRANTED.

A Notice of Allowance was mailed July 28, 2004. The issue fee has not been paid.

The Request for Continued Examination and the Information Disclosure Statement filed herewith complies with 37 C.F.R. § 1.114.

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 Fee(s) 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 Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Edward Glick, Supervisory Patent Examiner, at (571) 272-2490.

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

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
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Paper No. 10

Morrison & Foerster
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888

#10

MAILED

MAY 29 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

29 MAY 2002

In re Application of:
Michael Binnard
Application No. 09/892,558
Filed: June 28, 2001
For: SIX DEGREE OF FREEDOM CONTROL OF PLANAR MOTORS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 08, 2001.

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 that can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above requirements. The request was signed by Barry E. Bretschneider, on behalf of all the attorneys of record in the above identified application.

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

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

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

cc: David Hill, Esq.
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, N.W., Suite 700
Washington, D.C. 20005-3315,

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed: September 6, 2007

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

Applicant: Turner et al.
Appl. No.: 09/892,586
Filing Date: June 27, 2001
Title: COMPUTER METHOD AND APPARATUS FOR CONSTRAINING A NON-LINEAR APPROXIMATOR OF AN EMPIRICAL PROCESS
Attorney Docket No.: 1086.2002-001
Pub. No.: US 2002/0072828 A1
Pub. Date: June 13, 2002

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 11, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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 applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/07/2007 KKING1
06/12/2007 HGUTEMA1 00000074 09892586
03 FC:1504 -300.00 DP

Repln. Ref: 09/07/2007 KKING1 0017430300
DAH:080380 Name/Number:09892586
FC: 9204 $300.00 CR

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

TERRY J. ANDERSON, ESQ.
NORTHROP GRUMMAN CORPORATION
1840 CENTURY PARK EAST
LOS ANGELES, CA 90067-2199

COPY MAILED

SEP 19 2005

OFFICE OF PETITIONS

In re Application of :
Raymond F. Ayala, et al. :
Application No. 09/892,596 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. NORTH-444A/A-2341 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 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 4, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 5, 2004.

Receipt is acknowledged of the IDS and the Terminal Disclaimer filed with the instant petition.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed June 9, 2005 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center 2600, Art Unit 2635 for further processing.

Retta Williams

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

cc: Bruce B. Brunda
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

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-07

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
Chaskar et al. :
Application No. 09/892,611 : DECISION ON PETITION
Filed: 06/28/2001 :
Atty Docket No. 05288.00010 :

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

The petition is **GRANTED**.

The application became abandoned on 1 December, 2006, for failure to submit a proper corrected appeal brief in response to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on 31 October, 2006, which set a one (1) month shortened period for reply. No extensions of the time for reply were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed an amended brief with the present petition.

---

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

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

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

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

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

The application is referred to Technology Center Art Unit 2142 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

WILLIAM S. FROMMER,ESQ.
THOMAS J. KOWALSKI, ESQ.
FROMMER, LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

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DEC 2 3 2004

OFFICE OF PETITIONS

In re Application of
Bouquet, et al.
Application No. 09/892,612
Filed: June 28, 2001
Attorney Docket No: P06152US01/BAS

ON PETITION

This is regarding the "Petition to Revive and Waive Rules" filed October 18, 2004. The petition will be treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed oath or declaration.

The petition is dismissed as moot.

Petitioner has requested that the Declaration and Power of Attorney filed with the petition be accepted as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution of the patent application. Petitioner makes this request because it is alleged that the signatures of some of the inventors were falsified on the originally filed declaration.

While the facts of the petition are noted, a review of the application history did not reveal any error in the prosecution, relative to the oath or declaration, that could be remedied by the filing of a petition under 37 CFR 1.137(b). More specifically, no Office communication was issued requiring the filing of a properly executed oath or declaration such that the subsequent failure to file a declaration with the true signatures of the inventors would have resulted in abandonment of the application justifying the filing of a petition under 37 CFR 1.137 at this juncture. The instant petition is, therefore, moot.

Notwithstanding the aforementioned, the declaration filed with the instant petition can be made a part of the record as a supplemental declaration filed pursuant to 37 CFR 1.67 which allows for the filing of a supplemental declaration to correct deficiencies or inaccuracies present in an earlier filed application. The declaration filed October 18, 2004, is noted as a supplemental declaration pursuant to 37 CFR 1.67, accordingly. The petition fee of $1,370.00 will be credited to deposit account 50-0320 and the petition fee of $130.00 will be refunded via treasury check.

The application file will be directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/17/08

Paper No.: —

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/892613 Patent No: 7321026B2

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.

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

1643

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~1/7/08~~ 1/7/09

Paper No.: —

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/892613 Patent No: 7321026B2

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: NO STATEMENT CRF + PAPER COPY ARE SAME

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 1643

UNITED STATES PATENT AND TRADEMARK OFFICE

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

February 12, 2009

Chalin A. Smith
Smith Patent Consulting
3309 Duke Street
Alexandria, VA 22314

Patent No: 7,321,026 B2
Application No: 09/892613
Applicant: Shawn Shui-on Leung, et al.
Issued: January 22, 2008
Title: **FRAMEWORK-PATCHED IMMUNOGLOBULINS**

Request for Certificate 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 Rule 1.322/1.323.

The error complained of in your request, cannot be corrected: Per the examiner "no statement, CRFE and the paper copy are the same.

In view of the foregoing, your request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to the Decisions & Certificate of Correspondence Branch.

Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED A. STADNICKI
FIFTH FLOOR
1146 NINETEENTH STREET, NW
WASHINGTON, DC 20036

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of :
Bill Kitchen et al :
Application No. 09/892,627 : DECISION ON PETITION
Filed: June 28, 2001 : TO WITHDRAW
Attorney Docket No. 3350-05H : 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 24, 2005.

The request is **NOT APPROVED**.

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

The 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 reason set forth in the request does not appear to meet any of the conditions set forth in 37 CFR 10.40.

The Power of Attorney submitted July 20, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of

the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: William R. Silverio
Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309-3996

cc: Mr. Hans Dreyer
Director, Intellectual Property
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, Virginia 22209

MAILED

JUL 0 8 2003

Technology Center 2100

In re Application of: Luke E. GIRARD)
Application No. 09/892,667)
Filed: June 28, 2001) **DECISION ON REQUEST FOR**
For: RADIO LOCATION BASED THEFT) **WITHDRAWAL AS ATTORNEY**
RECOVERY MECHANISM)

This is a decision on the Request To Withdraw from Representation filed June 23, 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.

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

cc: Kenyon & Kenyon
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAILED

OCT 1 4 2003

Technology Center 2100

In re Application of
Brian J. KAMROWSKI, et al.
Application No. 09/892,733
Filed: June 28, 2001
For: METHOD AND APPARATUS FOR CONTENT BASED HTML CODING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 25, 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.

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

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

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

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1500 K STREET NW
SUITE 700
WASHINGTON DC 20005

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Kamrowski et al. :
Application No. 09/892,733 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 2207/11658 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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MAY 0 5 2006
OFFICE OF PETITIONS

In re Application of Mackay et al. :
Application No. 09/892,753 : Decision on Petition
Filing Date: June 28, 2001 :
Attorney Docket No. 3285.01US02 :

This is a decision on the petition filed March 14, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A Notice of Allowance and a Notice of Allowability were mailed on September 21, 2004.

The Notice of Allowability stated Corrected Drawings must be submitted or the application would become abandoned.

The issue fee and publication fee were paid on December 27, 2004 (Certificate of Mailing date of December 21, 2004). New drawings were not filed on December 27, 2004. In fact, the papers filed on December 27, 2004, do not make any reference to the drawings requested in the Notice of Allowability.

A Notice of Abandonment was mailed on February 18, 2005.

The instant petition was filed on March 14, 2005.

The petition is not accompanied by new drawings. Instead, the petition states petitioner believes the box was inadvertently checked in error because the Office did not object to the drawings prior to the Notice of Allowability.

Discussion:

The examiner has been contacted and the examiner stated he intentionally marked the box requiring new, corrected drawings to be filed.

A "Notice of Draftperson's Patent Drawing Review" is attached. The Notice discuss the changes which need to be made to the drawings.

Even if the box had been inadvertently checked, the application would be abandoned. When an applicant feels an Office action is incorrect, applicant may not simply take refrain from filing a reply. A reply must be filed even if the reply is only a discussion of why the Office action is incorrect.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply - Corrected Drawings, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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

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

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

The Office apologizes for the delay in the issuance of the instant decision. The undersigned would be pleased to receive a telephone call from petitioner when a new petition is filed and is willing to check on a daily basis for receipt of the new petition in the Office of Petitions. Once the petition is received in the Office of Petitions, via IFW, the undersigned will take steps to ensure a decision is promptly rendered and mailed.

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

Attached: Notice of Draftperson's Patent Drawing Review
Form for petition under 37 CFR 1.137(b)

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of Mackay et al. :
Application No. 09/892,753 : Decision on Petition
Filing Date: June 28, 2001 :
Attorney Docket No. 3285.01US02 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed September 21, 2004, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on December 22, 2004. A Notice of Abandonment was mailed February 18, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAWSON, & PERSSON, P.C.
SUITE 103
67 WATER STREET
LACONIA NH 03246

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OFFICE OF PETITIONS

In re Application of :
Robert Andrew Byers et al. :
Application No. 09/892,800 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No.: **1535-001** :

This is a decision on the petition filed March 24, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 24, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 27, 2006. Accordingly, a Notice of Abandonment was mailed March 21, 2007.

This matter is being referred to Technology Center 3627 for appropriate action on the amendment filed March 24, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[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)).

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TERRY J. ANDERSON, ESQ.
NORTHROP GRUMMAN CORPORATION
1840 CENTURY PARK EAST
LOS ANGELES, CA 90067-2199

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OFFICE OF PETITIONS

In re Application of:	:	
Raymond F. Ayala	:	
Application No. 09/892,825	:	DECISION ON
Filed: June 27, 2001	:	PETITION
Attorney Docket. No.:	:	
NORTH-451A/A-2354	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 6, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 7, 2004. A Notice of Abandonment was mailed May 19, 2004.

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

Having found that the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

This application is being returned to Technology Center 2635 for processing of the Amendment and Information Disclosure Statement ("IDS"), filed with the instant petition on June 9, 2005, 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

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1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of :
Masatoshi Ozawa :
Application No. 09/892,847 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. P20726

This is a decision on the petition, filed January 6, 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 9, 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 2152 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

OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of :
Mikio Aoki et al :
Application No. 09/892,887 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 109953 :

This is a decision on the petition, filed May 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 25, 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 3624 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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WASHINGTON DC 20036

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MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of
Kight et al.
Application No. 09/892,897
Filed: 28 June, 2001
Atty's Docket No. 3350-89

DECISION GRANTING PETITION

This is a decision on the petition filed on 15 January, 2002, requesting that the above-identified application, including Figure 13 described in the specification, be accorded a filing date of 28 June, 2001.

On 28 June, 2001, the application was filed.

On 22 August, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 28 June, 2001, but that, *inter alia*, Figure 13 described in the specification appeared to have been omitted. Additionally, on 7 November, 2001, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that Figure 13 described in the specification appeared to have been omitted.

In response, on 15 January, 2002 (certificate of mailing date 7 December, 2001), one (1) sheet of drawings containing Figure 13 and the present petition were submitted. Petitioners assert that one (1) sheet of drawings containing Figure 13 was filed with the other application papers on 28 June, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' two postcard receipts were supplied with the present petition. Both postcard receipts shows an Office date stamp of 28 June, 2001, and one identifies the application by application number. Both identify the application by attorney docket number, and invention title, and acknowledge receipt, *inter alia*, of 26 sheets of drawings. Petitioners

request that the application, including the one (1) sheet of drawings containing Figure 13 be accorded a filing date of 28 June, 2001.

Upon further review, 25 sheets of drawings containing Figures 1A-1B, 3-8, 9A-9B, 10-12, 14, 15, 16A, 16B, 17, 18A, 18B, 19, 20A-20C have been located in the file. However, the evidence is convincing that the application papers deposited on 28 June, 2001, included one (1) sheet of drawing containing Figure 13 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 13 as described in the specification, is entitled to a filing date of 28 June, 2001.

Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on 22 August, 2001, is hereby vacated to the extent that it stated that Figure 13 described in the specification appeared to have been omitted. Additionally, the Notice of Incomplete Reply mailed on 7 November, 2001, is withdrawn.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 12-0429.

The application will be processed using the application papers, filed on 28 June, 2001, and the one (1) sheet of drawings containing Figure 13 supplied on 15 January, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 28 June, 2001, using the application papers filed that date, and the one (1) sheet of drawings containing Figure 13 supplied on 15 January, 2002, and for an indication on the bib-data sheet that 26 sheets of drawings were present on filing.

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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Kenneth W. Rake et al :
Application No. 09/892,900 : DECISION ON PETITION
Filed: June 26, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IFLOW.2CP2F3C1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 23, 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 August 1, 2003.

The petition is **GRANTED**.

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

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

---

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

The instant pending application was filed on June 26, 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.

Petitioner is reminded that the reference to some of the prior-filed applications noted in the amendment submitted on August 1, 2003, was not present in the oath/declaration or transmittal letter upon the filing of the above-identified application. Therefore, the petition fee of $1,330 will be charged to deposit account no. 11-1410 as authorized.

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

The examiner of Technology Center Art Unit 3761 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

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Duane K. Morris
1667 K Street NW Suite 700
Washington, DC 20006

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OFFICE OF PETITIONS

In re Application of Johnson :
Application No. 09/893,009 : Decision on Petition
Filing Date: June 28, 2001 :
Attorney Docket No. HAR63 610 :

This is a decision on the petition under 37 CFR 1.181, filed April 21, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A Notice of Allowance was mailed December 1, 2005. The Notice required payment of the issue fee and publication fee.

On February 15, 2006, petitioner submitted $1,400 for the issue fee, $300 for the publication fee, and $18 for six patent copies.

Unfortunately, the PTOL-85b Fee Transmittal form contained a typographical error. The form listed the application number as 09/983,009.

The fees were applied to the incorrect application.

On or about April 14, 2006, the Office recognized the instant application's record failed to indicate receipt of the issue fee and publication fee. A Notice of Abandonment was mailed on April 14, 2006.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

Petitioner has met requirements (1) and (2) listed above.

The fees paid on February 15, 2006, will be appropriately applied and credited to the instant application.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Publications will be informed of the instant decision and will issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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2225 EAST BAYSHORE ROAD
SUITE 210
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Kent Johnson :
Application No. 09/893,009 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. **650001-162** :

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

The petition under 37 CFR 1.78(a)(6) is **DISMISSED.**

A petition for acceptance of a claim for late priority 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 periods specified in 37 CFR 1.78(a)(5)(ii).

The petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior filed application, unless previously submitted.

2. the surcharge set forth in § 1.17(t)

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition under 37 CFR 1.78(a)(6) lacks item (1) above.

As to item (1), it is noted that the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) to the prior-filed provisional application includes an incorporation by reference statement incorporating the entire disclosure of prior-filed application. It is further noted that the subject application did not contain an incorporation by reference statement on filing in either the specification or application transmittal sheet that included application 60/221,516. The incorporation by reference statement included in the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is improper as it seeks to include new matter in the application after filing. See 35 U.S.C. § 132. The reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is, therefore, made improper by the inclusion of the incorporation by reference statement.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6).[1]

The issue fee in this case was paid on April 21, 2006. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(6). In such case, submission of a certificate of correction (along with the $100 fee and the $130 processing fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(6).

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until further written instructions to the contrary are received.

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

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

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

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

cc:
L. Lawton Rogers, III
1401 Eye Street, NW Suite 300
Washington, DC 20005

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THELEN REID BROWN RAYSMAN & STEINER LLP
2225 EAST BAYSHORE ROAD
SUITE 210
PALO ALTO, CA 94303

COPY MAILED

JUN 02 2008

OFFICE OF PETITIONS

In re Patent No. 7,317,902 :
Issued : January 8, 2008 :
Application No. 09/893,009 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. **650001-162** :

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

The renewed petition under 37 CFR 1.78(a)(6) is **GRANTED.**

A petition for acceptance of a claim for late priority 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 periods specified in 37 CFR 1.78(a)(5)(ii).

The petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior filed application, unless previously submitted.

2. the surcharge set forth in § 1.17(t)

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Patentee should note that the inclusion of the April 4, 2007, amendment was unnecessary since the certificate of correction represents the only change that will be made to the patent. Notwithstanding, it is again noted that the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) to the prior-filed provisional application includes an incorporation by reference statement incorporating the entire disclosure of prior-filed application. It is further noted that the subject application did not contain an incorporation by reference statement on filing in either the specification or application transmittal sheet that included application 60/221,516. The incorporation by reference statement included in the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is improper as it seeks to include new matter in the application after filing. See 35 U.S.C. § 132. The reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is, therefore, made improper by the inclusion of the incorporation by reference statement.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(6).

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/893,009	06/28/2001	2617	1460	650001-162	17	7

CONFIRMATION NO. 6392

CORRECTED FILING RECEIPT

58773
THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. Box 640640
SAN JOSE, CA 95164-0640

Date Mailed: 05/15/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kent Johnson, Lake Tahoe, CA;

Power of Attorney: The patent practitioners associated with Customer Number 58773

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/221,516 07/28/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/21/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/893,009**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SUCCESSIVE LOG VIDEO PAD POWER DETECTOR AND METHOD

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

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OFFICE OF PETITIONS

In re Application of :
Wood :
Application No. 09/893,066 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. H0001858 US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2006, to revive the above-identified application.

On September 1, 2005, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. The application became abandoned on December 2, 2005. On March 1, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements of 37 CFR 1.137(b) to revive this application. Petitioner submitted a reply in the form of payment of the issue fee and the publication fee and authorized payment of the petition fee. The petition is **granted**

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. 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. The Office will charge the $1,500.00 petition fee to the Deposit Account as authorized.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the issuance of a patent should be directed to the Office of Patent Publication Customer Service at (571) 272-4200.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#3
3/27/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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TECHNOLOGY CENTER 2100

Paper No.3

Wendi R. Schepler
CARR & FERRELL LLP
2225 Bayshore Road, Suite 200
Palo Alto, CA 94303

In re Application of:	)	
Philip DesJardins	)	
Application No. 09/893,101	)	**DECISION ON REQUEST FOR**
Filed: June 26, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: ROBUST PACKET ARRIVAL TIME DETECTOR USING ESTIMATED SIGNAL POWER	)	

This is a decision on the Request To Withdraw from Representation filed March 11, 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 March 11, 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: Jim H. Salter
BLAKELY, SOKOLOFF, TAYLOR
and ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James H. Salter
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

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OFFICE OF PETITIONS

In re Application of DesJardins et al. :
Application No. 09/893,101 : Decision on Petition
Filing Date: June 26, 2001 :
Attorney Docket No. 006491.P036 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2005, to revive the above-identified application. The petition is also being sua sponte treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

A non-final Office action was mailed on July 9, 2003.

A response to the Office action was filed August 22, 2003. The response included a revocation and new power of attorney.

The new power of attorney requested the address listed at the top of the instant decision become the correspondence address of record.

For unknown reasons, the revocation and power of attorney paper were not entered.

On October 6, 2004, the Office mailed a Notice of Allowance and Notice of Allowability. The Notices were addressed to:

Jim H. Salter
BLAKELY, SOKOLOFF, TAYLOR AND ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

Petitioner did not receive the Notices.

On December 13, 2004, petitioner submitted an IDS.

On August 24, 2005, the Office mailed a Notice to petitioner stating the December 13, 2004 IDS would not be considered because it had been filed after the mailing of a Notice of Allowance.

Although a Notice of Abandonment has not been mailed, the application *appeared* to be abandoned as a result of petitioner's failure to respond to the Notice of Allowance.

The instant petition, RCE, and copy of the prior IDS were filed on September 6, 2005.

Analysis:

The Office has the discretion to consider the propriety of any holding of abandonment before considering the merits of a petition to revive.

A review of the file indicates the Notice of Allowance and Notice of Allowability should have been mailed to a different address. Petitioner did not receive the Notices due to PTO error. Therefore, the petition under 37 CFR 1.181 is granted and the application is deemed to have never to have become abandoned.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will be credited to petitioner's deposit account.

The Notice of Allowance and Notice of Allowability are both vacated.

Since the October 6, 2004 Notices have been vacated, the RCE filed with the petition is being filed after a non-final Office action and is unnecessary and improper. The RCE will not be entered and the RCE fee will be credited to petitioner's deposit account.

Technology Center Art Unit 2182 will be informed of the instant decision so that the application can be further examined in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BINGHAM McCUTCHEN LLP
THREE EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111-4067

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OFFICE OF PETITIONS

In re Application of	:	
Hassan Mostafavi	:	
Application No. 09/893,122	:	DECISION GRANTING PETITION
Filed: June 26, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 264/027	:	

This is a decision on the petition, filed August 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 June 3, 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 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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of :
Uemura Kensuke, et al. :
Application No. 09/893,138 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. F-7038 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application papers mailed September 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 November 18, 2001.

Receipt is acknowledged of the Preliminary Amendment filed September 9, 2002, with the instant petition.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

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

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

Patrice Bond
for Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PAPER NO. 14

Frank Chau
F. Chau & Associates, LLP
1900 Hempstead Turnpike Suite 501
East Meadow NY 11554

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OFFICE OF PETITIONS

In re Application of
Gerald Friese
Application No. 09/893,160
Filed: June 27, 2001
Attorney Docket No. 8055-83CIP

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 24, 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 13, 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 1765 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
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Paper No. 5

Richard L. Sampson
SAMPSON & ASSOCIATES, P.C.
50 Congress Street, Suite 519
Boston, MA 02109

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DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of :
Faris et al. :
Application No. 09/893,163 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 0126/1101.014 :

This is a decision on the petition filed September 28, 2001, requesting that the above-identified application be accorded a filing date of June 26, 2001, rather than the presently accorded filing date of June 27, 2001.

It is noted that the petition was directed to the present application, application No. 09/893,163, and to PCT application No. PCT/US01/20346. The petition has been placed in the file of application No. 09/893,163, the first listed application in the petition heading. This decision relates only to application No. 09/893,163. If a decision is desired in PCT application No. PCT/US01/20346, a separate paper directed specifically to that application should be filed. A second petition fee will also be required in the PCT application. See 37 CFR 1.4(b).

Petitioners request the earlier filing date on the basis that the application was deposited in an Express Mail drop box on June 26, 2001. However, petitioners acknowledge that the deposit was made after the last scheduled pick up for the day.

The petition is dismissed.

37 CFR 1.10(a) reads as follows:

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

Emphasis supplied. The petition is not accompanied by a copy of petitioners' Express Mail mailing label.[1] However, it appears

[1] The original application transmittal letter identifies the Express Mail label number as EF357710345US.

that the "date-in" on petitioners' Express Mail mailing label is June 27, 2001.[2] Therefore, according to the language of 37 CFR 1.10(a), the date of deposit of this application with the USPS is June 27, 2001, the filing date presently accorded the application.

Assuming arguendo that the petition establishes that the application was deposited in an Express Mail drop box on June 26, 2001, after the last scheduled pick up by counsel's employee and contrary to counsel's instructions, the petition fails to demonstrate that the situation described therein is so extraordinary as to warrant waiver or suspension of the language of 37 CFR 1.10(a) under 37 CFR 1.183.

The petition admits that counsel' employee could have deposited the application directly with an employee of the USPS to ensure receipt of a legible copy of the Express Mail mailing label with the "date-in" clearly marked as June 26, 2001. Instead, counsel's employee chose to deposit the application in an Express Mail drop box after the last scheduled pick up. Thus, petitioners assumed the risk of not receiving a copy of the Express Mail mailing label with the desired "date-in." Petitioners' failure to obtain a copy of the Express Mail mailing label with the "date-in" shown as June 26, 2001, could have been avoided by the exercise of due care. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183. See Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.).

The application is being returned to the Office of Initial Patent Examination to await receipt of applicants' response to the Notice mailed August 20, 2001, and for further processing with a filing date of June 27, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

Enclosure: Express Mail Information Database record concerning Express Mail label No. EF357710345US

[2] The USPS Express Mail information database shows that the package bearing Express Mail label No. EF357710345US was accepted by the USPS at 12:45 AM on June 27, 2001, and was delivered or received by the USPTO on June 28, 2001. See enclosure.

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Mailed:

JUL 27 2004

DWW

Paper No. 10

In re application of
Singh et al.
Serial No. 09/893,188
Filed: June 27, 2001
For: DUAL LAYER PATTERNING SCHEME
TO MAKE DUAL DAMASCENE

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING ABANDONMENT, filed March 1, 2004 for failure to respond to the office action dated May 19, 2003. Applicants assert that a proper, timely response was sent out through Facsimile Transmission on August 19, 2003.

DECISION

Since petitioner asserts that a timely response was sent to the USPTO through Facsimile Transmission, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The submitted evidence is a copy of the Auto-Reply Facsimile Transmission, which indicates that the Reply was faxed on August 19, 2003. Further, the return Auto-Reply Facsimile Transmission also indicates that the Reply was received by the USPTO on August 19, 2003.

Therefore, the Notice of Abandonment dated February 20, 2004 is hereby withdrawn. Hence, the case is returned to pending status. The application shall be returned to the LIE for entering of the response to the Non-Final rejection. After such is completed, the case will be returned to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Amin & Turocy, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland, Ohio 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5306

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AUG 30 2007

OFFICE OF PETITIONS

In re Application of
Creemer et al.
Application No. 09/893189
Patent No: 7,194,512
Issue Date 3/20/07
Filed: June 26, 2001

: DECISION DISMISSING LETTER

This letter is in response to patentees' "COMMENTS REGARDING PATENT TERM ADJUSTMENT" filed May 22, 2007 advising the Office of a discrepancy in the PTA determination. The Office thanks patentees for their good faith and candor in bringing any discrepancy to the attention of the Office.

The letter submitted by Patentees is **Dismissed.** The patent term adjustment at the time of the issuance of the patent is confirmed.

Patentees assert that there is a discrepancy in the PTA determination. Patentees do not provide information as to why such determination is incorrect. [1] If patentees point out specifically why they believe such to be inaccurate, the Office would review such alleged inaccuracy.

Upon review of the determination, the PTA is not less than the amount granted and issued on the front of the patent. Accordingly, the Office will not issue a certificate of correction reducing the amount of PTA awarded.

Because this letter was submitted out of good faith and candor, no fee will be assessed concerning this letter.

Any questions related to this decision can be addressed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

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

---

[1]The office notes that applicants must have timely filed the request and paid the $200.00 application fee pursuant to 37 CFR 1.705 if applicant believed that not enough time was awarded

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

RECEIVED

MAR 30 2007

OFFICE OF PETITIONS

CANCELLED

PLEVY & HOWARD & DARCY P.C.
P.O. BOX 226
Fort Washington PA 19034

In re Application of
Ismail K. Labeeb et al.
Application No. 09/893,192
Filed: June 27, 2001
Attorney Docket No. METABYTE-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 15, 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) was obtained. Accordingly, the application became abandoned on September 16, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center Art Unit 2612 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DAVID R. CLEVELAND
IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Kelton et al.	:	
Application No. 09/893,223	:	ON PETITION
Filed: June 27, 2001	:	
Attorney Docket No.	:	
163.1062USD1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim for the benefit of a the prior-filed application, filed August 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

This Petition is hereby **dismissed**.

37 CFR 1.78(a)(1) provides that "[a] nonprovisional application may claim an invention disclosed in one or more prior filed copending nonprovisional applications or copending international applications claiming the United States of America."

In this instance, the above-identified application was filed on June 27, 2001. The application for which the benefit is sought, number 08/382,906, filed February 3, 1995, and now U.S. Patent No. 5,716,260, issued on February 10, 1998, more than two (2) years before the instant pending nonprovisional application was filed.

Therefore, copendency does not exist between the instant application and the application for which the benefit is sought. *See*, 37 CFR 1.78(a)(1) and MPEP 1481.

Moreover, Applicant seeks to amend the above-identified application to include a priority claim for application number 08/382,906, filed February 3, 1995, and now U.S. Patent No. 5,716,260, issued on February 10, 1998, as a continuation-in-part ("CIP") of application number 08/382,293, filed February 1, 1995, now abandoned; however, a review of application 08/382,906, reveals that it does not contain a priority claim to application 08/382,293.

Accordingly, application number 08/382,906 must be corrected to reflect the priority claim as a CIP to application 08/382,293. See MPEP 1481.

A review of the priority chain for the above-identified application reveals that the above-identified application is a division of 09/021,106, filed February 10, 1998, now U.S. Patent No. 6,254,462 issued July 3, 2001[1]. Application 09/021,106 is a CIP of application number 08/382,906. Correction of application number 08/382,906 must be effected to reflect the priority claim as a CIP to application 08/382,293, before the above-identified application may be amended to reflect the priority claim of application number 08/382,906 as a CIP to application 08/382,293.

Telephone inquiries concerning this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

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

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

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

[1] This application has not been included in Applicant's Amendment filed with the instant petition as part of the priority chain.

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

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

Frances Hicks
Lead Paralegal
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
www.uspto.gov

Paper No. 15

John H. Bouchard
GeoQuest
5599 San Felipe, Suite 700
Houston, TX 77056

JUN 25 2003

In re Application of)
Simon Hastings Bittleston)
Application No. 09/893,234)
Filed: June 26, 2001)
For: CONTROL DEVICE FOR)
CONTROLLING THE POSITION OF)
A MARINE SEISMIC STREAMER)

DECISION ON PETITION

This is a decision on the petition, filed March 25, 2003, via facsimile transmission and supplemented April 22, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the restriction requirement of June 19, 2002 A Notice of Abandonment was mailed on December 9, 2002.

Petitioner states that an election was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of an election along with a petition for an extension of time of five (5) months by the Patent and Trademark Office (PTO) on December 23, 2002.

The review of the application file reveals that the election were received and matched therewith. However, the election was not noticed by the examiner and the technical support staff. Consequently, the election was not properly entered in the file. The application is not abandoned in fact.

For above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the election. From there, it will be returned to the examiner for further prosecution.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

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Paper No. 9

Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

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AUG 1 9 2003

OFFICE OF PETITIONS

In re Application of
Barry S. Fogel
Application No. 09/893,244
Filed: June 27, 2001
Attorney Docket No. 0264724-0031

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 1, 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 November 2, 2002.

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Frances Hicks at (703)305-8680.

The application file is being forwarded to Technology Center 1600, Art Unit 1617.

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

Frances Hicks
Petitions Examiner

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Paper No.

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

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Styczynski et al. : DECISION ON PETITION
Application No. 09/893,252 :
Filed: June 27, 2001 :
Atty Docket No. 00216-552001 :
/H-245 (KAY :

This is a decision on the "PETITION TO WITHDRAW NOTICE OF ABANDONMENT" filed June 12, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 19, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on June 2, 2006.

In response, applicants timely filed the instant petition. Petitioner states that a reply to the Office action including a certification that the reply was deposited with the United States Postal Service as first class mail with sufficient postage on January 13, 2006. In support thereof, petitioner submits *inter alia* a copy of the response as filed and a statement of timely mailing by Sherry Hunt, the attorney's secretary who signed the certificate of mailing under § 1.8.

37 CFR 1.8(b) provides 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 U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding

is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

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

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated January 13, 2006.

Accordingly, the Notice of Abandonment mailed June 2, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1617 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the Office action resubmitted on petition filed June 12, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BRAD A ARMSTRONG
PO BOX 1419
PARADISE CA 95967

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APR 2 3 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Armstrong.
Application No. 09/893,292
Filed: June 26, 2001
For: IMAGE CONTROLLER

This is a decision on the petition filed April 8, 2003, which requests under 37 CFR 1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioner requests that the terminal disclaimer voluntarily filed August 8, 2001, be withdrawn. Since the examination of this application has not yet begun, the request can be favorably considered.

This application is being forwarded to the technology Center AU 2673 for correction of PALM and file wrapper records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-03-08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/893292 Patent No.: 7345670

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. 123

Thank You For Your Assistance

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

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

Comments: All changes have been approved.

/Sumati Lefkowitz/ — **SPE**

2629 — **Art Unit**

OIPE
DEC 31 2001
JC63
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Seeton V #3

Applicant: James Daniel Jackson et al.

Title: ELECTRONIC ASSEMBLY WITH SEPARATE POWER AND SIGNAL CONNECTIONS

Docket No.: 884.470US1
Filed: June 27, 2001
Examiner: Unknown

Serial No.: 09/893,307
Due Date: October 16, 2001
Group Art Unit: 2833

Attn: Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

We are transmitting herewith the attached:

X A return postcard.
X A check in the amount of $130.00 to cover the Missing Parts Fee.
X A check in the amount of $1,004.00 to cover the Basic Filing Fee and Additional Claims Fee.
X Communication Re: Missing Parts (2 pgs.)
X A signed Combined Declaration and Power of Attorney (4 pgs.).
X Notice to File Missing Parts (1pg.)
X Communication Re: Corrected Application Papers (1 pg.)
X Formal Drawings (4 pgs.).

If not provided for in a separate paper filed herewith, please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers and please charge any additional required fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938, Minneapolis, MN 55402 (612-373-6900)

By: Ann M. McCrackin
Name: Ann M. McCrackin
Reg. No. 42,858
AMM1:CMG:clh

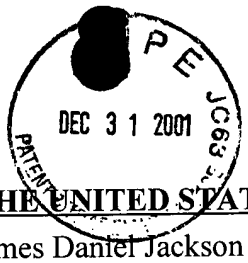
CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Attn: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on this 16 day of October, 2001.

ANN McCRACKIN
Name

Ann M. McCrackin
Signature

#3

S/N 09/893,307



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	James Daniel Jackson et al.	Examiner: Unknown
Serial No.:	09/893,307	Group Art Unit: 2833
Filed:	June 27, 2001	Docket: 884.470US1
Title:	ELECTRONIC ASSEMBLY WITH SEPARATE POWER AND SIGNAL CONNECTIONS	

COMMUNICATION RE: MISSING PARTS

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

In response to the "Notice to File Missing Parts" (see enclosed copy), we submit the signed Combined Declaration and Power of Attorney along with a check in the amount of $130.00 to cover the large entity surcharge and a check in the amount of $1,004.00 to cover the large entity basic filing fee.

Applicants assume the application is now in proper order and in condition for examination. Please direct any inquiries to the undersigned attorney at (612) 349-9592.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JAMES DANIEL JACKSON ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9592

Date Oct. 16, 2001 By Ann M. McCrackin

Ann M. McCrackin
Reg. No. 42,858
AMM1:CMG:clh

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231, on Oct. 16, 2001
Date of Deposit

ANN McCRACKIN
Ann M. McCrackin

#3

S/N 09/893,307

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	James Daniel Jackson et al.	Examiner:
Serial No.:	09/893,307	Group Art Unit: 2833
Filed:	June 27, 2001	Docket: 884.470US1
Title:	ELECTRONIC ASSEMBLY WITH SEPARATE POWER AND SIGNAL CONNECTIONS	

OIPE JC63 DEC 31 2001 PATENT & TRADEMARK

COMMUNICATION RE: CORRECTED APPLICATION PAPERS

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

In response to the "Notice to File Corrected Application Papers" (see enclosed copy), applicant is submitting drawings in compliance with 37 C.F.R. 1.184.

Applicants assume the application is now in proper order and in condition for examination. Please direct any inquiries to the undersigned attorney at (612) 349-9592.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JAMES DANIEL JACKSON ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9592

Date Oct. 16, 2001 By Ann M. McCrackin

Ann M. McCrackin
Reg. No. 42,858
AMM1:CMG:clh

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231, on Oct. 16, 2001
Date of Deposit

ANN McCRACKIN
Ann M. McCrackin

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
09/893,307	06/27/2001	James Daniel Jackson	884.470US1

OIPE DEC 31 2001 JC63 PATENT & TRADEMARK

CONFIRMATION NO. 1983

FORMALITIES LETTER

OC000000006433426

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

Date Mailed: 08/16/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $260.
  - **$180** for **10** total claims over 20.
  - **$80** for **1** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1100.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

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

01/03/2002 NAHMED1 00000115 09893307
01 FC:101 740.00 OP
02 FC:102 84.00 OP
03 FC:103 180.00 OP
04 FC:105 130.00 OP
FORM 2075 (6/96)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/27/09

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/893,316 Patent No.: 7,094,291

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of**
Correction Branch

703-756-1573

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: _____

_____

_____

_____

_____

PHILIP TUCKER
SPE

1791
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. 5

Edwin D. Schindler
Five Hirsch Avenue
PO Box 966
Coram, NY 11727-0966

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JAN 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Coneliano, Robert. :
Application No. 09/893,325 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 Application (Notice) mailed August 20, 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 October 21, 2001.

This application is being forwarded to the Office of Initial Patent Examination.

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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 03-02

Paper No. 5

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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MAR 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
O'Rourke, Dean, Wang, Van Antwerp,	:	
Roth, and Knowlton	:	DECISION REFUSING STATUS
Application No. 09/893,373	:	UNDER 37 CFR 1.47(a)
Filed: 26 June, 2001	:	
Attorney Docket No. MS1-575US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 16 January, 2002.

The petition is **DISMISSED**.

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

The above-identified application was filed on 26 June, 2001, with a declaration naming Bret P. O'Rourke, Dawson F. Dean, Chih-Kan Wang, Mark D. Van Antwerp, David J. Roth, and Chadd B. Knowlton as joint inventors and signed by all joint inventors except Wang on behalf of themselves and joint inventor Wang.

Accordingly, on 21 August, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, additional claim fee(s), an oath or declaration bearing the signature of Chih-Kan Wang, and a surcharge for their late filing. A two (2)-month period for reply was set. In response, on 16 January, 2002, the present petition was filed,

accompanied by a three (3)-month extension of time fee, the basic filing fee, additional claim fee(s), and the late filing surcharge. Petitioners assert that joint inventor Wang cannot be found despite diligent efforts.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2). In regards to item (1), petitioners have not provided proof that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[2] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details. It is noted that a brief Internet search suggests that Wang may now be living at another address in Redmond, WA.

In the event that the application is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

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[1] MPEP 409.03(d).

[2] Id.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), the declaration as filed does not state the citizenship of non-signing inventor Wang.[3] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[4] Additionally, the declaration filed on 26 June, 2001 does not state that the person(s) making the oath or declaration acknowledge the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56. Rather, the declaration filed on 26 June, 2001, incorrectly acknowledges a duty to disclose all information material to examination of the application. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor, must be submitted with any renewed petition.

The petition fee will be charged to counsel's deposit account, No. 12-0769, as authorized by the fee transmittal filed with the present petition.

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

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

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

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

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[3] MPEP 605.01.

[4] 35 U.S.C. § 115, MPEP 605.01.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 07-02

Paper No. 9

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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JUL 09 2002

OFFICE OF PETITIONS

In re Application of	:	
O'Rourke, Dean, Wang, Van Antwerp,	:	DECISION NOTING JOINDER OF
Roth, and Knowlton	:	INVENTOR AND PETITION UNDER
Application No. 09/893,373	:	37 CFR 1.47(a) MOOT
Filed: 26 June, 2001	:	
Attorney Docket No. MS1-575US	:	

Papers filed on 26 June, 2002, in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on 26 March, 2002, included a Declaration signed by the previously non-signing inventor, Chih-Kan Wang, 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).

It is noted that the declaration filed on 26 June, 2001, and with the present request for reconsideration, is defective in that it does not state that the person(s) making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56. Rather, the declaration incorrectly acknowledges a duty to disclose all information material to examination of the application. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted when required by the examiner.

The application is being forwarded to Technology Center 2100 for examination in due course.

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

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

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

Edward L. Pencoske
Thorp Reed & Armstrong, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Keeth et al.
Application No. 09/893,389
Filed: June 28, 2001
Attorney Docket No. DB000575-014

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705" timely[1] filed on August 16, 2004 requesting that the Office adjust the PTA determination from a determination of zero (0) days to a determining of five hundred and sixty-two (562) days.

Applicants' application for patent term adjustment is **GRANTED to the extent herein indicated.** The Office will adjust the PTA calculation to reflect that the correct determination at the time of the mailing of the notice of allowance is FIVE HUNDRED AND FORTY-THREE (543) days.

Applicants assert that they are entitled to 562 days of PTA because the Office failed to respond to applicants' response after non-final rejection within four months. See 37 CFR 1.702(a)(2). Applicants assert that the Office erred in entering the proper date of Response in PALM and accordingly thus failed to provide the proper amount of PTA. Applicants assert that the amendment was filed on May 9,[2] 2002 in response to the Office action mailed on February 12, 2002 but the date the response was entered into the PALM was January 26, 2004. Applicants assert that the date of January 26, 2004 was the date in which applicants resubmitted the amendment etc. in response to an examiner's request to resubmit file contents based upon a lost file and should not be considered the actual date of response to the Office action. Applicants do not suggest that there was any applicant delay in this the prosecution of this application.

Applicants arguments have been considered and are persuasive to the extent discussed infra. Specifically, the Office notes that the actual date of response to the February 12, 2004 Office

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[1] Issue fee paid on November 8, 2004

[2]The amendment was filed by 37 CFR § 1.8 certificate of mailing which was received in the USPTO on May 31, 2002. It should be noted that the certificate of mail date is not taken into consideration when determining PTA. See 37 CFR 1.703(f).

action is in fact May 31, 2002.[3] Accordingly, applicants did fail to respond to the Office action within the three month requirement pursuant to 37 CFR 1.704(b). Applicant delay was for nineteen (19) days. [4] However, because the Office did not reply to the May 31, 2002 response until April 14, 2004, the Office had an administrative delay of five hundred and sixty-two (562) days. Accordingly, the correct amount of patent term adjustment at the time of the mailing of the notice of allowance is five hundred and forty-three (562-19=543) days.

After mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the patent. The Office apologizes for any delay in the issuance of the patent. The Office notes that any additional administrative delay for not issuing the patent within four months of the payment of the issue fee and other requirements being satisfied will be added at the time of the issuance of the patent.

The Office has assessed the required $200.00 application fee. No additional fees are required by the Office.

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

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

[3]Applicants believe the date of response to be May 9, 2002 because that is the date of the certificate of mailing, however, as noted earlier, certificates of mailing are not taken into consideration in calculating PTA. An applicant wishing to maximize PTA may wish to file their response to the Office action by express mail pursuant to 37 CFR § 1.10.

[4]Applicant delay began on May 13, 2002 and ended on May 31, 2002.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090817

DATE : February 23, 2009

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7046255

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:

/ULKA CHAUHAN/
Supervisory Patent Examiner.Art Unit 2628

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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JJGJR.: 08-05

Paper No: __

DUANE MORRIS LLP
SUITE 700
1667 K STREET NW
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of :
Udd :
Application No. 09/893,440 :
Filed: 29 June, 2001
Attorney Docket No. HAR 66 013 :

DECISION ON PETITION

This is a decision on the petition filed on 27 July, 2005, under 37 C.F.R. §1.137(a) and §1.137(b) to revive the application as abandoned due to unavoidable delay, and as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

NOTE: Docketing of Status Inquiries at six- (6-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

For the reasons set forth below the petition under 37 C.F.R.:

- §1.181 is **GRANTED**; and
- §1.137(a) and 37 C.F.R.§1.137(b) are **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action, mailed on 30 July, 2004, with reply due absent extension of time on or before Monday, 1 November, 2004;

- the application went abandoned after midnight 30 October, 2004;

- the Office mailed the Notice of Abandonment on 15 June, 2005;

- Petitioner responds that:

  –30 July, 2004, Office action was not received by his office;

  –a review of docketing materials show no evidence of receipt of the 30 July, 2004, Office action (a description of the procedures is provided); and

  –Petitioner evidences with a receipt card (see: MPEP §503[1]), that

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

he Noticed the Office on 5 September, 2002, of a Change of Address, which apparently was not incorporated into Office records because the 30 July, 2004, Office action was mailed to the old address;

- Petitioner submits docketing documents suggesting the non-receipt and points to Office records evidencing that the 30 July, 2004, Office action was mailed to the old–and incorrect–address.

As of this writing, Office records have been updated to reflect Petitioner's new correspondence address.

Petitioner has filed an Amendment as the reply to the 30 July, 2004, non-final Office action.

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]

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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).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to a Request to Withdraw
the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See: the commentary set forth at MPEP §711.03(c).)

Petitioner has satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

The petition under 37 C.F.R. §1.137(a) is moot.

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing/statement of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

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

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

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

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

CONCLUSION

The petition(s) under 37 C.F.R.:

- §1.181 is **granted**, the petition fee ($1,500.00) and the unnecessary fee paid for an extension of time ($1,020.00) will be refunded, and the 15 June Notice of Abandonment is **vacated**; and

- under 37 C.F.R. §1.137(a) and §1.137(b) are **dismissed as moot** and the petition fee refunded .

The instant file is released to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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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Gowling Lafleur Henderson LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3
CANADA

Mail Date: 04/21/2010

Applicant	: Alan F. Graves	: DECISION ON REQUEST FOR
Patent Number	: 7599620	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/893,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1819** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/06/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 09893493 Patent No.: 7599620

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

KENNETH VANDERPUYE
~~SUPERVISORY PATENT EXAMINER~~
SPE

26/3
Art Unit

PAGE 2/2 * RCVD AT 4/22/2010 1:47:55 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/35 * DNIS:2709990 * CSID:7033057724 * DURATION (mm-ss):01-20

UNITED STATES PATENT AND TRADEMARK OFFICE

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Gowling Lafleur Henderson LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3
CANADA

Mail Date: 05/18/2010

Applicant : Alan F. Graves
Patent Number : 7599620
Issue Date : 10/06/2009
Application No: 09/893,493
Filed : 06/29/2001

: 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 **1867** 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
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NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of Flemming :
Application No. 09/893,501 : Decision on Petition
Filing Date: June 29, 2001 :
Attorney Docket No. 26509U :

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 6, 2005. A reply was filed on October 5, 2005. An advisory action was mailed November 3, 2005, indicating the reply did not place the application in condition for allowance. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on October 7, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Payment for an extension of time is unnecessary for relief to be granted under 37 CFR 1.137(b). In addition, the Office cannot accept an extension of time fee submitted after the expiration of the maximum extendable time period for reply. Therefore, the $510 extension of time fee submitted with the petition will be credited to petitioner's deposit account.

The petition is signed by Gary Nath. Nath was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears that Nath was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Nath that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Technology Center Art Unit 2136 will be informed of the instant decision and the examiner will further review the application in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED

OCT 26 2005

OFFICE OF PETITIONS

In re Application of :
Peter Forsell :
Application No. 09/893,510 : DECISION ON PETITION UNDER
Patent No. 6,915,165 : 37 C.F.R. §3.81(B)
Filed: June 29, 2001 :
Issue Date: July 5, 2005 :
Attorney Docket Number: 2333-72 :
Title: INTESTINE DYSFUNCTION :
TREATMENT APPARATUS :
:

This is a decision on the petition filed September 29, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently included on form PTOL-85B, and requests that a Certificate of Correction be issued deleting this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the Assignee which appears on the face of the patent should be deleted.

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

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

1 See Official Gazette, June 22, 2004.

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.

Both Petitioner's evidence and Office records show that no assignment for the above-identified application was recorded in the Office prior to the payment of the Issue Fee on March 17, 2005.

The petition is **GRANTED.**

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090415

DATE : April 15, 2009

TO SPE OF : ART UNIT 2421

SUBJECT : Request for Certificate of Correction on Patent No.: 7,383,561

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:

/John W Miller/
Supervisory Patent Examiner.Art Unit 2421

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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Patent No. 6,897,602 :
Issue Date: May 24, 2005 :
Application No. 09/893,554 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 041501-5435 :

This is a decision on the petition under 37 CFR 1.182, filed October 6, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Kimberly Terrell at (703) 308-9250 ext. 147.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, South Tower 8th Floor, C-41 Fax (703) 746-4658

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Paper No. 6

LONG ALDRIDGE & NORMAN, LLP
SUITE 600
701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE LIQUID CRYSTAL DISPLAY DEVICE AND ITS MANUFACTURING METHOD

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed October 16, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 29, 2001 without an executed oath or declaration. Accordingly, on August 17, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for their its filing.

In response, on October 16, 2001, a declaration executed by 4 of 5 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Seung K. Lee, an attorney handling the case, accompanied the petition. Ms. Lee explains that non-signing joint inventor Yong Beom Kim was mailed a registered letter including the combined Declaration and Power of Attorney for Mr. Kim's execution to his last known address. This mailing was returned. In addition, attempts to reach Mr. Kim at home and at work via the telephone were fruitless.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor cannot be reached. Applicants stated that calls were made to the inventor's telephone numbers of record, but that there was no answer. In addition, a copy of the declaration was mailed to the inventor's last known address, but was purportedly returned.[1]

Applicants have not shown the diligence required to attain Rule 47 status. An affidavit or declaration of facts must be signed by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. A copy of the complete application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested.

Copies of documentary evidence such as certified mail return receipt, any inquiries of the telephone directory, or any extant national or regional registry, telegrams, computer searches (LEXIS), and documented inquiries of his last known employer etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. Petitioners should provide a verified translation of any supporting documentation if the documentation is in a language other than English. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs slightly from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

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

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[1] The Office cannot read the Korean language envelope. Thus, why the envelope was returned cannot be ascertained --was it undeliverable, was it refused, etc.

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

E. Shirene Willis

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

cc: LONG ALDRIDGE & NORMAN, LLP
SIXTH FLOOR, SUITE 600
701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20231

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OFFICE OF PETITIONS

LONG ALDRIDGE & NORMAN, LLP
701 PENNSYLVANIA AVENUE N.W.
SUITE 600
WASHINGTON DC 20004

In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE LIQUID CRYSTAL DISPLAY DEVICE AND ITS MANUFACTURING METHOD

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 24, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventor, Yong Beom Kim, cannot be located. Specifically, the declaration of Seung K. Lee and accompanying exhibits establish that despite a number of attempts to locate Mr. Kim, Mr. Kim could not be found. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

The November 27, 2001 dismissal of the October 16, 2001 petition set a two month extendable period for filing a reconsideration petition. The instant petition was filed on April 24, 2002. Pursuant to petitioners' authorization, deposit account no. 50-0911 will be charged $920.00 for a three month extension of time.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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YONG BEOM KIM
DONGSIN APT, 212-80
313-1 CONGCHA-DONG, CHANGAN-GU
SUWON-SHI, KYONGGI-DO
KOREA

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MAY 0 8 2002

OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE LIQUID CRYSTAL DISPLAY DEVICE AND ITS MANUFACTURING METHOD

LETTER

Dear Mr. Kim:

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: LONG ALDRIDGE & NORMAN, LLP
701 PENNSYLVANIA AVENUE N.W.
SUITE 600
WASHINGTON DC 20004

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TROPIC NETWORKS INC.
DR. VICTORIA DONNELLY
135 MICHAEL COWPLAND DRIVE
KANATA ON K2M 2E9 CA CANADA

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MAR 2 8 2003

OFFICE OF PETITIONS

Applicant: Ganti et al.
Appl. No.: 09/893,584
Filing Date: June 29, 2001
Title: CASCADED POLICING SYSTEMS AND METHODS
Attorney Docket No.: 78945-7/jlo
Pub. No.: US 2003/0018801 A1
Pub. Date: January 23, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information is missing from the front page of the publication.

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 instant request does not identify a material mistake in the publication made by the Office. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[2] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d)

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[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).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Takuya Homme et al
Application No. 09/893,586
Filed: June 29, 2001
Attorney Docket No. 046124-5085

This is a decision on the petition, filed January 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 16, 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 2878 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. 7

LALOS & KEEGAN
1146 NINETEENTH STREET N W
FIFTH FLOOR
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Matthew Biondi et al :
Application No. 09/893,596 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 6504 :

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2002.

The petition is dismissed.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration and power of attorney submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth Mr. Biondi's citizenship. Therefore, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a); MPEP 602 and MPEP 605.01.

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 Wan Laymon.

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

By mail: U.S. Patent and Trademark Office
Mail Stop DAC
P.O. Box 2327
Arlington, VA 22202

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

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

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

LALOS & KEEGAN
FIFTH FLOOR
1146 NINETEENTH STREET, N.W.
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Biondi, Coira, Derstine, Panzica,	:	
Kent, McNamara, and Harding-Heese	:	DECISION REFUSING STATUS
Application No. 09/893,596	:	UNDER 37 CFR 1.47(a)
Filed: 29 June, 2001	:	
Attorney Docket No. 6504	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 6 July, 2002.

The petition is again **DISMISSED**.

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

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

---

[1] 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.

presented with the application papers (specification, claims and drawings);

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

(3) the petition fee; and

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

The petition lacks item (2). In regards to item (2), although petitioners now have submitted an oath or declaration listing the citizenship of the non-signing inventor, that declaration must be signed by all of the inventors signing on behalf of the non-signing inventor. Petitioners state that counsel is currently in the process of obtaining the signatures of the signing inventors on the declaration listing the citizenship of the non-signing inventor. A renewed petition must be filed with that oath or declaration. Thus, a new oath or declaration in compliance with 37 CFR 1.63 and 1.67 and containing the signatures of all of the signing inventors is required.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

LALOS & KEEGAN
FIFTH FLOOR
1146 NINETEENTH STREET, N.W.
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MAR 18 2003

OFFICE OF PETITIONS

In re Application of :
Biondi, Coira, Derstine, Panzica, :
Kent, McNamara, and Harding-Heese : DECISION REFUSING STATUS
Application No. 09/893,596 : UNDER 37 CFR 1.47(a)
Filed: 29 June, 2001 :
Attorney Docket No. 6504 :

This is in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 6 July, 2002.

The petition is again **DISMISSED**.

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

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

[1] 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.

presented with the application papers (specification, claims and drawings);

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

(3) the petition fee; and

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

The petition lacks item (2). In regards to item (2), although petitioners now have submitted an oath or declaration listing the citizenship of the non-signing inventor, that declaration must be signed by all of the inventors signing on behalf of the non-signing inventor. Petitioners state that counsel is currently in the process of obtaining the signatures of the signing inventors on the declaration listing the citizenship of the non-signing inventor. A renewed petition must be filed with that oath or declaration. Thus, a new oath or declaration in compliance with 37 CFR 1.63 and 1.67 and containing the signatures of all of the signing inventors is required.

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

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

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

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

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 15

ANTONELLI, TERRY, STOUT & KROUS LLP
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of	
Biondi, Coira, Derstine, Panzica,	
Kent, McNamara, and Harding-Heese	DECISION ACCORDING STATUS
Application No. 09/893,596	UNDER 37 CFR 1.47(a)
Filed: 29 June, 2001	
Attorney Docket No. 6504	

This is in response to the second renewed petition filed under 37 CFR 1.47(a)[1] on 24 March, 2003, which is being treated as: (a) a petition under 37 CFR 1.47(a), and (b) a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[2] The $130 fee has been received.

The petition is **GRANTED**.

Petition Under 37 CFR 1.47(a)

Petitioners have shown that non-signing inventor Matthew Biondi (Biondi), has refused to join in the filing of the above-

[1] 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.

[2] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

identified application after having been mailed a copy of the application papers. Specifically, the declaration of Robert A. Calichman establishes that the non-signing inventor was sent a copy of the application papers but orally refused to execute and return the declaration naming him as a joint inventor along with Robert S. Coira, Joel D. Derstine, Christopher Panzica, Michael J. Kent, Theresa M. McNamara, and Ann Kathleen Harding-Hesse.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67

In view of the efforts recounted in the petition to obtain the signature of Joel D. Derstine, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed June 4, 1999.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

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

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

DWood

Douglas I. Wood
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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ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Matthew Biondi et al : DECISION ON PETITION TO
Application No. 09/893,596 : WITHDRAW FROM RECORD
Filed: June 29, 2001 :
Attorney Docket No. 3350-102 :

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 28, 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 the firm of Antonelli Terry Stout & Kraus LLP has been revoked by the assignee of the patent application on November 21, 2005. 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 assignee.

The file record discloses that a non-final Office action was mailed on March 28, 2006. A reply thereto was received on June 30, 2006. Accordingly, the Technology Center will take appropriate action on the reply in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Sutherland Asbill & Brennan LLP
999 Peachtree Street NE
Atlanta, GA 30309

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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ALFRED STADNICKI
ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
Michael E. Gardi, et al. :
Application No. 09/893,597 : DECISION ON PETITION
Filed: June 29, 2001 : TO WITHDRAW
Attorney Docket No. 3350-82 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 27, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

It is noted that an Office action was mailed on March 16, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theranostech, Inc.
Attn: Patent Counsel
5741 Midway Park Blvd. NE
Albuquerque NM 87109

COPY MAILED

AUG 07 2008

In re Application of	:	
Hollowitz et al.	:	
Application No. 09/893604	:	DECISION ON PETITION
Filing or 371(c) Date: 06/29/2001	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. BIOT1-11	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 6, 2007, and supplemented on August 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the amendment filed August 4, 2008.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

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

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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.

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

This application is being referred to Technology Center Art Unit 1648 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

CC: V. GERALD GRAFE
P.O. BOX 2689
CORRALES, NM 87048

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/893,604	06/29/2001	1648	420	BIOT1-11	16	2

CONFIRMATION NO. 6514

CORRECTED FILING RECEIPT

Theranostech, Inc.
Attn: Patent Counsel
5741 Midway Park Blvd. NE
Albuquerque, NM 87109

Date Mailed: 08/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert A. Hallowitz, Newmarket, MD;
John Krowka, Frederick, MD;
Shawn Matlock, Frederick, MD;

Assignment For Published Patent Application

Bio-Tech Imaging, Inc., Frederick, MOLDOVA, REPUBLIC OF

Power of Attorney:

Victor Grafe--42599
Debra Shoemaker--47941

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/215,075 06/30/2000
and is a CIP of 09/299,625 04/27/1999 PAT 6,461,809
which is a CON of 09/139,663 08/25/1998 ABN
which is a 371 of PCT/US97/18649 10/15/1997
and is a CIP of 08/732,782 10/15/1996 PAT 5,817,458
which is a CIP of 08/732,784 10/15/1996 PAT 5,714,390

Foreign Applications

If Required, Foreign Filing License Granted: 08/16/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/893,604**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

METHODS FOR CHARACTERIZING THE VIRAL INFECTIVITY STATUS OF A HOST

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Patent No. 7,036,011	:	
Issued: April 25, 2006	:	
Application No. 09/893,635	:	ON PETITION
Filed: June 29, 2001	:	
Attorney Docket No. 5594	:	

This is a decision on the petition under 37 CFR 1.182, filed August 25, 2006, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 10 2004

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

In re application of Ichiro Yamashita :
Serial No. : 09/893,666 : DECISION ON PETITION
Filed : June 29, 2001 :
Attorney Docket No.: 210217US0 :

This is in response to applicant's petition, filed December 31, 2003 under 37 CFR 1.181(a)(3). Applicant requests that the examiner consider two references which were previously submitted prior to allowance.

DECISION

Applicant's petition is **GRANTED**.

The application will be forwarded to the examiner for consideration of the references.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FEB 10 2004

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

In re application of Ichiro Yamashita	:
Serial No. : 09/893,666	: DECISION ON PETITION
Filed : June 29, 2001	:
Attorney Docket No.: 210217US0	:

This is in response to applicant's petition, filed December 31, 2003 under 37 CFR 1.181(a)(3). Applicant requests that the examiner consider two references which were previously submitted prior to allowance.

DECISION

Applicant's petition is **GRANTED**.

The application will be forwarded to the examiner for consideration of the references.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NYH 10038

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MAR 20 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Noboru Asauchi :
Application No. 09/893,685 :
Filed: June 29, 2001 :
Attorney Docket No. 405507/0051 :

This is a decision on the petition, filed March 19, 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 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2625 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).

#3
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JUL 24 2003

TECHNOLOGY CENTER 2100

Paper No. 3

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:)
Nalawadi, et al.)
Application No. 09/893,718) **DECISION ON REQUEST FOR**
Filed: June 29, 2001) **WITHDRAWAL AS ATTORNEY**
For: COMPUTER SYSTEM HAVING A)
SINGLE PROCESSOR EQUIPPED
TO SERVE AS MULTIPLE LOGICAL
PROCESSORS FOR PRE-BOOT
SOFTWARE TO EXECUTE PRE-
BOOT TASKS IN PARALLEL

This is a decision on the Request To Withdraw from Representation filed June 26, 2003.

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

The request filed June 26, 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: Richard Pagaduan
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

JUL 19 2006

Technology Center 2100

In re Application of: Virad Gupta
Application No. 09/893,742
Filed: June 29, 2001
For: UNIFIED MESSAGING WITH SEPARATE MEDIA COMPONENT STORAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 7, 2006.

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

The request 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

Commissioner for Patents
United States Patent and Trademark Office
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PERKINS COIE LLP/MSFT
P.O. BOX 1247
SEATTLE, WA 98111-1247

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Douglas Wyatt :
Application No. 09/893,749 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 7895.0027 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 21, 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 October 22, 2004.

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

This matter is being referred to Technology Center AU 2124 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Douglas K. Wyatt	: DECISION ON REQUEST FOR
Patent Number	: 7665082	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/893,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1508** 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.

#11
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
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MAY 12 2003

Ronald P. Kananen
Rader, Fishman & Grauer, PLLC
Suite 501
1233 20th Street, NW
Washington, DC 20036

MAILED

MAY 12 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Mary Purvis
Application No. 09/893,770
Filed: June 29, 2001
For: REPLACEABLE COOLER TOPS WITH SPORT LOGO

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on January 15, 2003. There is no fee required for this petition.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to properly respond to the Office action dated May 9, 2002.

The applicant has submitted a copy of a Response which includes a copy of a post card identifying the Response and related documents and which included a USPTO Mail Room receipt date of November 12, 2002. This is acceptable evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Amendment filed with the petition, then to the Examiner for prompt action on the merits.

Steven N. Meyers, Special Program Examiner
Patent Technology Center 3600
(703) 305-3868
(703) 605-0586

SNM/tpl: 5/9/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070412

DATE : April 12, 2007

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 09/893,784

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:

NGOC-YEN VU
SUPERVISORY PATENT EXAMINER (4/12/07)

SPE: NgocYen T. Vu **Art Unit** 2622

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

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JAN 17 2006

OFFICE OF PETITIONS
ON PETITION

In re Patent No. 6,948,157 :
Issue Date: September 20, 2005 :
Application No. 09/893,798 :
Filed: June 28, 2001 :
Patentee: Fredrik Larsson, et al. :

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

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

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Paper No. 7

FENNEMORE CRAIG
3003 N. Central Avenue
Suite 2600
Phoenix, AZ 85012

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JUL 18 2003

OFFICE OF PETITIONS

In re Application of
Pettit et al.
Application No. 09/893,861
Filed: June 28, 2001
Attorney Docket No. 12504.370

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 28, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 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 October 18, 2001.

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

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

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

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

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MAIL

Paper No. 6

OCT 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of
Anil VASUDEVAN
Application No. 09/893,888
Filed: June 29, 2001
For: METHOD AND APPARATUS TO REDUCE PACKET TRAFFIC ACROSS AN I/O BUS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed September 25, 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 has been **GRANTED**.

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

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

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Anil Vasudevan :
Application No. 09/893888 :
Filing or 371(c) Date: 06/29/2001 :
Attorney Docket Number: :
219.40060X00 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment," filed September 6, 2007. The petition is properly treated under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 21, 2005. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on December 22, 2005. A Notice of Abandonment was mailed September 5, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence[1]. The Power of Attorney or Authorization of Agent has been entered and made of record.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2155 for re-mailing of the Office action.

[1] Applicant filed a copy of a Power of Attorney or Authorization of Agent and a copy of a return-receipt postcard acknowledging receipt by this Office of the Power of Attorney or Authorization of Agent in the above-identified application on October 20, 2003. The Power of Attorney or Authorization of Agent was not entered in the above-identified application until receipt of the present petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 12 2003

Paper No. 8

In re Application of :
Scott Cann *et al* : DECISION ON PETITION
Application No. 09/893,928 :
Filed: June 28, 2001 :
Attorney Docket No. 039035/215341

This is a decision on the petition filed on November 10, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated March 12, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was timely filed. In support of this allegation, petitioners have furnished a copy of the reply as filed, and a copy of a filing receipt for the reply showing that the reply was in fact received in the Office on May 19, 2003, within the period for reply set in the Office letter dated March 12, 2003. In addition, Office financial records confirm receipt of the $252.00 claims fee that was filed concurrently with the reply. It is clear from this evidence that the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner to for action on the reply filed on May 19, 2003.

PETITION GRANTED.

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

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

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Paper No. 26

CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK NY 10016

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Masahide Hio, et al. :
Application No. 09/893,931 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. FP01-003US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 22, 2004, to revive the above-identified application.

This application became abandoned for failure to timely respond, under 37 CFR 1.197, to a decision by the Board of Patent Appeals and Interferences mailed March 8, 2004. A Notice of Abandonment was mailed June 15, 2004.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed May 24, 2004.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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101904

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

In re Application of:
Yun-Bok Lee et al.
Serial No.: 09/893,964
Filed: June 29, 2001
Attorney Docket No.: 8733.452.00

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed May 17, 2004, via facsimile transmission, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Final Office action of September 29, 2003. A Notice of Abandonment was mailed on April 28, 2004 to a previous correspondence address and re-mailed to the above-indicated address on May 24, 2004.

Petitioner asserts that the final Office action mailed September 29, 2003, was not received. To support this assertion, petitioner asserts that the final Office action was not received because it was returned undelivered by the US Postal Service, and that a search of the file jacket and docket records indicates that the Office action was not received.

A review of the written record indicates that the final Office action mailed September 29, 2003 was returned undelivered by the U.S. Postal Service on October 3, 2003. The record also indicates that a Notice of Abandonment was issued on April 28, 2004. This Notice was also returned undelivered by the U.S. Postal Service on May 11, 2004. A request for a "Change of Correspondence Address" was filed, via facsimile transmission, on May 17, 2004, and a copy of this request along with an "Auto-Reply Facsimile Transmission" acknowledging receipt of a 3-page transmission on May 17, 2004 by the USPTO was filed on May 19, 2004. The Notice of Abandonment was apparently remailed to the new address but was also returned undelivered by the U.S. Postal Service. There is no evidence of record indicating that the final Office action was remailed.

Pursuant to M.P.E.P. § 707.13, the USPTO should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof

and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924). If the Office is not finally successful in delivering the letter, it is placed, with the envelope, in the file wrapper. For an Image File Wrapper (IFW), a copy of the letter, and a copy of the envelope should be added to the IFW (see IFW Manual). If the period dating from the remailing elapses with no communication from applicant, the application is abandoned."

The final Office action was returned undelivered by the US Postal Service and was not remailed pursuant to M.P.E.P. § 707.13. The failure to remail the final Office action resulted in the petitioner not being duly served notice that a response to the final Office action was required. Accordingly, the application is not abandoned in fact.

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

The final Office action of September 29, 2003 will be remailed. The shortened statutory period for response will be reset to run from the date the action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (703) 308-0519.

Sharon A. Gibson, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#6

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OCT - 9 2003

TECHNOLOGY CENTER 2100

Paper No. 6

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:	)	
Cohen et al.	)	
Application No. 09/893,981	)	**DECISION ON REQUEST FOR**
Filed: June 29, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: POWER CONTROL FOR A COMPUTER SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed September 25, 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 September 25, 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.

for James R. Matthews

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

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAILED

JUL 17 2003

Technology Center 2100

In re Application of: Eric T. Fought, et al.)
Application No. 09/894,007)
Filed: June 29, 2001) **DECISION ON REQUEST FOR**
For: METHOD AND APPARATUS FOR) **WITHDRAWAL AS ATTORNEY**
TESTING AN I/O BUFFER)

This is a decision on the Request To Withdraw from Representation filed June 26, 2003.

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

The request is **GRANTED**.

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

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

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
Attn: Richard Pagaduan
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

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OFFICE OF PETITIONS

In re Application of :
Leif Wilhelmsson et al :
Application No. 09/894,050 : ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. P13949-US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2007, 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 6, 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 7, 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 2642 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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WASHINGTON, D.C. 20231
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JJGJr: 07-02

Paper No. 12

BRACEWELL & PATTERSON, L.L.P.
7600B N. Capital of Texas Hwy/Ste. 350
AUSTIN TX 78731

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Kalman
Application No. 09/894,077
Filed: 28 June, 2001
Attorney Docket No. RPS920000119 US1

: DECISION ON PETITION

This is a decision on the petition filed on 22 April, 2002, styled "Petition to Withdraw Erroneous Notice of Omitted Item(s)," and properly considered under 37 C.F.R. §1.53, requesting that Figures 3A and 3B, as described in the specification, be accorded a filing date of 28 June, 2001.

The petition is **GRANTED**.[1]

The application was deposited (Express Mail No. EF272757360US) on 28 June, 2001, and the record contains the transmittal sheet indicating that the papers to be submitted included "Drawings - Five (5) sheets," however, initial review of the application indicated that Figures 3A and 3B, as described in the specification, were absent from the application.

The Office mailed on 11 March, 2002, a "Notice of Omitted Item(s) in a Nonprovisional Application,"stating that while a filing date had been accorded to the application as filed, it appeared that Figures 3A and 3B, as described in the specification, were absent from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed a response on 22 April, 2002, with the instant petition, a copy of the Office-stamped filing receipt card, a copy of the entire application as alleged to have been filed--including a copy of documents identified as Figure 3A and 3B, authorization to charge the petition fee, and the required copy of the Notice.

The copy of the date stamped (28 June, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, five sheets of drawings.

A new review of the application papers reveals that prior to the instant petition the record

---

[1] The petition fee ($130.00) charged to Petitioner's Deposit Account 50-0563 upon filing is credited back to that deposit account..

contained five sheets of drawings, with no duplications, one of which contained a figure identified as Figure 3A and one of which contained a figure 3B.

A review of the above-described receipt card reflects the Office receipt of documents, *inter alia*, "6. Five (5) sheets of drawings[.]"

The return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503 and, further, a new review of the application file reveals the presence of Figures 3A and 3B upon filing on 28 June, 2001. Therefore the Office concludes that five sheets of drawings, including pages containing Figures 3A and 3B, were filed on 28 June, 2001, and that the sheets of drawings containing Figures 3A and 3B were not observed on initial review.

Accordingly, the petition is **granted**.

The Notice of Omitted Items mailed on 11 March, 2002, hereby is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 June, 2001, using the five sheets of drawings filed on 28 June, 2001, with an indication on the PALM bib data sheet that five sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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Paper No.

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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JUN 10 2008

OFFICE OF PETITIONS

In re Application of :
Eric J. Horvitz :
Application No. 09/894,087 :
Filed: June 28, 2001 : DECISION ON PETITION
Attorney Docket No. MS171133.1 : PURSUANT TO
Title: METHODS FOR AND : 37 C.F.R. § 1.137(B)
APPLICATIONS OF LEARNING AND :
INFERRING THE PERIODS OF TIME :
UNTIL PEOPLE ARE AVAILABLE OR :
UNAVAILABLE FOR DIFFERENT :
FORMS OF COMMUNICATION, :
COLLABORATION, AND INFORMATION :
ACCESS :

This is a decision on the petition filed September 11, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 11, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[1]. Accordingly, the above-identified application became abandoned on August 12, 2007. A Notice of Abandonment was mailed on September 6, 2007.

1 See MPEP § 710.02(e).

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

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

The petition, issue, and publication fees will be charged to Petitioner's Deposit Account, as authorized in the petition, in due course.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

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

Regarding Petitioner's request for the waiver of the fee that is associated with the filing of this petition, the request cannot be granted, as petition fees are jurisdictional. Petitioner will note that 37 C.F.R. § 1.137(b) specifically sets forth that a "grantable petition pursuant to this paragraph must be accompanied by…the petition fee…"

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication 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 Office of Patent Publication 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 the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Michael A. Perks, et al. :
Application No. 09/894,096 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. AUS920010171US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2006, 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 December 14, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed September 14, 2005. Accordingly, the date of abandonment of this application is September 15, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Dwip N. Banerjee	: DECISION ON REQUEST FOR
Patent Number	: 7647409	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/894,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2762** 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
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/23/2010

Applicant	: Ji Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7656949	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/894,113	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **992** 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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Perman & Green, LLP
425 Post Road
Fairfield, CT 06824

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Yuen Chuen Chan, et. al. :
Application No. 09/894,186 : NOTICE
Filed: June 28, 2001 :
Attorney Docket No. 774-010087-US (PAR) :

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

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

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

This file is being referred to the Office of Publications for further processing into a patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of Struble :
Application No. 09/894,213 : Decision on Petition
Filing Date: June 27, 2001 :
Attorney Docket No. 10010610-1 :

This is a decision on the petition under 37 CFR 1.181, filed April 19, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A final rejection was mailed September 21, 2004.

A reply to the final rejection was filed November 8, 2004. A review of the reply indicates pages 3, 4, 5, and 6 are **missing** from the application file.

An advisory action was mailed December 20, 2004.

A Notice of Appeal was filed January 21, 2005.

An Appeal Brief was filed February 10, 2005.

The Examiner's Answer was mailed May 5, 2005.

A reply brief was filed June 9, 2005.

The application was forwarded to the Board of Patent Appeals and Interferences ("Board").

On October 20, 2005, the Board remanded the case back to the examiner.

The Board indicated pages 3-6 of the papers filed November 8, 2004, are missing from the file. The Board indicated the examiner needed to have the pages scanned into the electronic file wrapper. The Board also cited several problems with the Examiner's Answer and required the examiner to submit a substitute examiner's answer.

The Office appears to have misconstrued the remand by the Board and interpreted the Board's objections to the Examiner's answer as objections to the Appeal Brief filed by petitioner. As a result, the Office mailed a Notice of Non-Compliant Brief on April 25, 2006. The Notice a shortened period for reply of one (1) month or thirty (30) days (whichever is later).

A reply to the April 25, 2006 Notice was not matched with the application file. As a result, a Notice of Abandonment was mailed March 7, 2007.

The instant petition was filed April 19, 2007.

Discussion:

Petitioner contends a reply to the April 25, 2006 Notice was filed on May 30, 2006.

Petitioner asserts a reply to the April 25, 2006 Notice was timely filed on May 30, 2006. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating a "Response to Notification of 'Non-Compliant' Appeal Brief," was received by the Office on May 30, 2006. A copy of the May 30, 2006 Response accompanies the petition. The response bears a proper certificate of mailing in compliance with the requirements of 37 C.F.R. 1.8(a)(1). The certificate of mailing date is May 25, 2006.

The original papers filed May 30, 2006, were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that a Response to the April 25, 2006 Notice was timely filed in the Patent and Trademark Office but not matched with the application file.

Since the Notice of Non-Compliant Brief was erroneous, petitioner's response was a proper response.

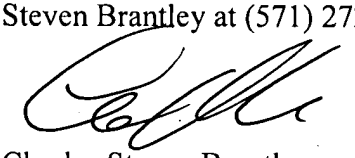
Since petitioner filed a timely and proper response to the April 25, 2006 Notice, the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner should note pages 3, 4, 5, and 6 of the papers filed November 8, 2004, are **missing** from the application file.

Technology Center Art Unit 3622 will be informed of the instant decision. Thereafter, the examiner will send petitioner a formal request for a copy of pages 3, 4, 5, and 6, filed November 8, 2004. The examiner will also take steps to prepare a substitute examiner's answer for submission to the Board of Patent Appeals and Interferences.

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
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Paper No. 5

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

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DEC 11 2001

OFFICE OF PETITIONS

In re Application of :
Robert A. Koch et al :
Application No. 09/894,257 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 60027.0007US01 :

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed September 17, 2001, requesting that the above-identified application be accorded a filing date of June 28, 2001, rather than the presently accorded filing date of June 29, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in "Express Mail" service with the U.S. Postal Service on June 28, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provide a copy of the Express Mail label, receipt No. EL814837541US. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "Pacific Station" receipt stamp dated "June 28, 2001". It is noted that the same Express Mail label number appears on the copy of the original transmittal letter submitted with the present application.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on June 28, 2001.

The petition is granted. A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2661 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Layman at (703) 306-5685.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Darren Schmidt, Ram Rajagopal, :
Lothar Wenzel and Dinesh Nair :
Application No. 09/894,272 :
Filed: June 28, 2001 :
For: SYSTEM AND METHOD FOR :
PERFORMING EDGE DETECTION IN AN :
IMAGE :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 27, 2005.

The petition is dismissed.

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

The above-identified application was filed on June 28, 2001 and named Darren Schmidt, Ram Rajagopal, Lothar Wenzel and Dinesh Nair as joint inventors.

However on September 30, 2004, a non-final Office action was mailed, requiring a non-defective substitute declaration.

In response, on June 27, 2005, the instant petition was filed.

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

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

(2) an acceptable oath or declaration;

(3) the petition fee; and

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

Applicant lacks item (2), as set forth above.

A non-defective substitute declaration still has not been presented. A substitute declaration that lists all of the inventors must be submitted. Furthermore, the declaration must be signed by all the available joint inventors with the signature block of the non-signing inventor left blank. See MPEP 409.03(a).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Darren Schmidt, Ram Rajagopal, :
Lothar Wenzel and Dinesh Nair :
Application No. 09/894,272 :
Filed: June 28, 2001 :
For: SYSTEM AND METHOD FOR :
PERFORMING EDGE DETECTION IN AN :
IMAGE :

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed September 22, 2005 (Certificate of Mailing Date: September 20, 2005).

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to sign the supplemental declaration and therefore refused to join in the filing of the above-identified application.

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

The file is being forwarded to Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAM RAJAGOPAL
39 CONSTITUTION WAY
SOUTH RIVER, NJ 08882

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of
Darren Schmidt, Ram Rajagopal,
Lothar Wenzel and Dinesh Nair
Application No. 09/894,272
Filed: June 28, 2001
For: SYSTEM AND METHOD FOR PERFORMING EDGE DETECTION IN AN IMAGE

Dear RAM RAJAGOPAL:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6900441
Issue Date: May 31,2005
Application No. 09894277
Filed: June 27,2001
Attorney Docket No. ADAC19006

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

This is a decision on the electronic petition, filed September 4,2009 ,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 4,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6900441	2005-05-31	09894277	2001-06-27	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Michael E Marion/	Date (YYYY-MM-DD)	2009-09-04
Name	Michael E. Marion	Registration Number	32266

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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DRW Jun-06

DALE COOK
SUITE 110
1756 114TH AVE. SE
BELLEVUE WA 98004

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JUN 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Tanumihardja et al.	:	
Application No. 09/894,278	:	ON PETITION
Filed: 27 June, 2001	:	
Attorney Docket No. 0805-003-003-SEED	:	

This is a decision in reference to the petition under 37 CFR 1.181 filed on 10 April, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 27 August, 2005, for failure to submit a timely response to the non-final Office action mailed on 26 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 January, 2006.

Petitioners assert that the Office action mailed on 26 May, 2005, was never received. Specifically, petitioners assert that applicants' file was acquired by practitioners Berkeley Law and Technology Group (hereinafter "Berkeley") from Seed Intellectual Group, the correspondence address of record, on or about 31 May, 2005. A review of the file was conducted on 2 June, 2005, and the Office action mailed on 26 May, 2005, was not located in the file. Petitioners aver that an additional search of the file jacket and docket record was conducted on 7 February, 2006, after the file was transferred from Berkeley to current attorney Dale

Cook's office, and the Office action mailed on 26 May, 2005, was not located therein.

Petitioners have also provided copies of docket reports as well as a statement by Susan Bollinger, Intake Manager for Berkeley, and Jennifer Badley, presumably also an employee of Berkeley, stating that the Office action was not received.

The showing of record is insufficient to withdraw the holding of abandonment.

A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish 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.[1] This showing 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.

It is noted that the Office action mailed on 26 May, 2005, was mailed to Seed Intellectual Property Group PLLC, 701 Fifth Avenue, Suite 6300, Seattle, WA 98104-7092. However, in view of petitioner's statement that the file was "transferred" to Berkeley on 31 May, 2005, it is not clear if the correspondence address had changed, or if petitioners were still receiving mail at the address of record on or after 31 May, 2005. Rather, the showing of record suggests, based on petitioners' statement that the "physical file" was "acquired," that the docketing and mail receipt was no longer occurring at the correspondence address. As such, it is unclear whether the docket records filed with the present petition reflect mail received from the correspondence address of record or some other address.

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[1] See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

It appears, therefore, that the Office action may have been properly mailed to petitioners' address of record but not received due to petitioners' changing counsel, or was lost after receipt due to counsel's relocation. Any renewed petition to withdraw the holding of abandonment must include a showing that petitioners were, in fact, receiving mail at the correspondence address of record at the time the Office action mailed on 26 May, 2005, was mailed, **and for a reasonable time thereafter.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[2]

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] 37 CFR 1.181(f).

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Commissioner for Patents
United States Patent and Trademark Office
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DIW Nov-06

DALE COOK
SUITE 110
1756 114TH AVE. SE
BELLEVUE WA 98004

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OFFICE OF PETITIONS

In re Application of :
Tanumihardja et al. :
Application No. 09/894,278 : ON PETITION
Filed: 27 June, 2001 :
Attorney Docket No. 0805-003-003-SEED :

This is a decision in reference to the renewed petition under 37 CFR 1.181 filed on 11 August, 2006, to withdraw the holding of abandonment.

The petition is again **DISMISSED**.

This application became abandoned on 27 August, 2005, for failure to submit a timely response to the non-final Office action mailed on 26 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 January, 2006. The petition under 37 CFR 1.181 filed on 10 April, 2006, was dismissed on 12 June, 2006.

Petitioners again assert that the Office action mailed on 26 May, 2005, was never received.

The showing of record is insufficient to withdraw the holding of abandonment. In this regard, it is noted that Page 3, paragraph D, of the renewed petition states:

> In response to Senior Petitions Attorney Wood's direction as set forth above, on August 2, 2006, our

> office contacted Seed Intellectual Property Group and asked for a written statement from Seed concerning the receipt and/or forwarding of correspondence for the Seed '403 (the docket number for the subject patent application) during the time period referenced in the Decision to Dismiss (e.g. "the time the Office action mailed on 26 May, 2005, was mailed, and for a reasonable time thereafter"). In response to our query, Seed Intellectual Property Group researched the matter further and informed us that, according to their internal log of incoming correspondence, Seed received a non-final Office Action for the Seed '403 file on 01 June 2005. Seed also informed us that their internal log indicated that the non-final Office Action for the Seed '403 file was forwarded to Intellectual Ventures, LLC on 02 June 2005.

As such, the showing of record is that the Office action mailed on 25 May, 2005, was in fact received at the correspondence address, but was lost or misplaced after receipt. While this is an unfortunate circumstance, the Office is nonetheless precluded from withdrawing the holding of abandonment, as the showing of record is that the Office action was in fact received at the correspondence address.[1]

Petitioners are strongly advised to file a petition to revive the application under 37 CFR 1.137(a) or (b). To this end, a copy of the Office action mailed on 26 May, 2005, is enclosed with this decision for use in preparing petitioners' reply to the Office action to be filed with the petition to revive.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[2]

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

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[1] Withdrawal of the holding of abandonment is not appropriate 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. See MPEP 711.03(c).

[2] 37 CFR 1.181(f).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Office action mailed on 26 May, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DNW Oct-07

CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
Tanumihardja et al. :
Application Number: 09/894278 : DECISION ON PETITION
Filing Date: 06/27/2001 :
Attorney Docket Number: 129359 :

This is a decision on the petition filed on 12 September, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 August, 2005, for failure to submit a timely response to the non-final Office action mailed on 26 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

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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)).

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 January, 2006. On 10 April, 2006, a petition to withdraw the holding of abandonment was filed. On 12 June, 2006, the petition was dismissed. On 11 August, 2006, a renewed petition to withdraw the holding of abandonment was filed, and on 3 November, 2006, the petition was dismissed.

Petitioner has filed an amendment to the claims as the required reply.

The application is being forwarded to Technology Center Art Unit 2155 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

INTERNATIONAL PLANT MANAGEMENT, INC.
55826 60TH AVENUE
LAWRENCE, MI 49064

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AUG 12 2003

OFFICE OF PETITIONS

In re Application of :
Roger D. Way, et al. :
Application No. 09/894,311 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. N/A :

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 **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 petition is not accompanied by a response which addresses each and every objection set forth in the non-final Office action of October 2, 2002. While it is noted that a Declaration received on January 7, 2003, which appears to address the objection to the Declaration raised in the October 2, 2002 Office action, no arguments/amendments have been submitted which addresses each and every objection set forth therein. Accordingly, before revival can be effected, a reply which addresses each and every objection raised in the October 2, 2002 non-final Office action must be submitted.

The instant petition is signed by Wanda Heuser Gale. Petitioner is advised that amendments and other papers filed in the application must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If Ms. Gale is signing the petition on behalf of an assignee, petitioner is advised that, in order for an assignee or other party in interest to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.,* copy of an executed assignment submitted for recording) or by specifying (*e.g.,* reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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

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

Retta Williams

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

Enclosure: Blank copy of 37 CFR 3.73(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

INTERNATIONAL PLANT MANAGEMENT, INC.
55826 60TH AVENUE
LAWRENCE, MI 49064

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Roger D. Way, et al. :
Application No. 09/894,311 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 8, 2003 and supplemented on May 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 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 January 3, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a reply to the outstanding Office action of October 2, 2002; (2) the petition fee; and (3) an acceptable statement of unintentional delay by Richard S. Cahoon have been received. Accordingly, the reply to the non-final Office action of October 2, 2002 is accepted as having been unintentionally delayed.

Petitioner is reminded that amendments and other papers in the file must be signed by a proper party in accordance with the provisions of 37 CFR 1.33(b) and 37 CFR 1.34.

Petitioner has submitted an "issue fee" in the amount of $315. However, since the issue fee cannot be prepaid, the issue fee cannot be accepted at this time. Accordingly, petitioner may request a refund of the $315 issue fee submitted by writing to Mail Stop 16; Director of the U. S. Patent and Trademark Office; P.O. Box 1450; Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application file is being forwarded to Technology Center 1600, Art Unit 1661 for further processing.

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

Retta Williams

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

cc: Richard S. Cahoon, Ph.D.
Cornell Research and Technology Park
20 Thornwood Drive, Suite 105
Ithaca, NY 14850

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Qing Ma et al	:	
Application No. 09/894,334	:	DECISION GRANTING PETITION
Filed: June 27, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 42390P10606	:	

This is a decision on the petition, filed October 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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.
09/894,344	**3/20/02**	**KI Y. NAM, ET AL**	**4711P006**

Title: **METHOD AND GEO-LOCATION DATA INTERPOLATION AND COMPRESSION**

Art Unit	Paper Number

Correspondence Address:
ROGER W. BLAKELY, JR.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BLVD., 7TH FL.
LOS ANGELES, CA 90025-1026

PATENT & TRADEMARK OFFICE
MAILED
APR 25 2002

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: 528,803
Grant Date: 25-Apr-02

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

Approved
for Commissioner of Patents and Trademar

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

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

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

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

LICENSE FOR FOREIGN FILING

[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

Roger W. Blakely, Jr.
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
3200 Park Center Drive, Suite 700
Costa Mesa, California 92626-3800

In re:	Nam et al	:	DECISION ON REQUEST
Serial No.:	09/894,344	:	UNDER 37 CFR 5.25
Filing date:	28 June 2001		
Docket No:	4711P006		

Title: **METHOD AND GEO-LOCATION DATA INTERPOLATION AND COMPRESSION**

In view of the communication(s) filed 20 March 2002, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
Argentina	02 July 2001

Approved:

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

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. 6

International Plant Management, Inc.
55826 60th Avenue
Lawrence, MI 49064

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of
Way et al.
Application No. 09/894,352
Filed: June 27, 2001
Title of Invention: 'NEWFANE CHERRY' CULTIVAR

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2003, to revive the above-identified application.

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed October 2, 2002. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 3, 2003. A Notice of Abandonment was mailed on May 20, 2003.

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

The instant petition lacks items (1). Petitioner is required to send a complete response to the October 2, 2002 non-final Office Action **with** the petition. Petitioner submitted $315.00 for payment of the issue fee with the instant petition. However, this is not the required reply needed. Payment of the issue fee is not an appropriate reply until an

application has been allowed and a Notice of Allowance and Fee (s) Due has been mailed to applicant. The issue fee of $315.00 will be returned to petitioner in the form of a treasury check. It is noted a new declaration was submitted with the petition in response to the Examiner's objection to the declaration in the October 2002 Office Action. However, applicant has failed to respond to the Objection to the Disclosure and the Claim Rejection stated in the October 2002 Office Action. On renewed petition applicant should submit a full response to the Office Action.

The petition has been signed by Wanda Heuser Gale who is listed as the correspondent for Assignee Cornell Research Foundation. A review of Office records shows inventor Roger D. Way is the only inventor who has assigned his interest to Cornell Research Foundation. Accordingly, Cornell Research Foundation is not the assignee of the entire interest. Pursuant to 37 CFR 1.33 (2)(b)(3) the signature of all applicants where there is no registered practitioner or an assignee of the entire invention is required. In this instance the signature of a representative of Cornell Research Foundation and the signatures of Robert Anderson and Susan Brown are required.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

International Plant Management, Inc.
55826 60th Avenue
Lawrence, MI 49064

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APR 15 2004

OFFICE OF PETITIONS

In re Application of :
Way et al. :
Application No. 09/894,352 : DECISION ON PETITION
Filed: June 27, 2001 :
Title of Invention: 'NEWFANE CHERRY' :
CULTIVAR

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 8, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed October 2, 2002. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 3, 2003. A Notice of Abandonment was mailed on May 20, 2003. A petition filed under 37 CFR 1.137(b) was dismissed on August 25, 2003.

This petition is hereby **GRANTED**.

This application is being forwarded to Technology Center 1661 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Michael H. Wright :
Application No. 09/894,422 : DECISION GRANTING PETITION
Filed: June 28, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. EMC-00-067 :

This is a decision on the petition, filed May 12, 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 29, 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 Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 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 currently of record until such time as appropriate instructions are received to the contrary.

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 2143 for examination in due course.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc:

Paul D. Durkee
275 Turnpike Street, Suite 101
Canton, MA 02021-2354

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 08-04

Paper No. 14

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Chiarello et al.	:	DECISION ON PETITION
Application No. 09/894,423	:	UNDER 37 CFR 1.78(a)(3)
Filed: 28 June, 2001	:	
Atty Docket No. SYNGEN-06067	:	

This is a decision on the petition filed on 22 December, 2003, which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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 29 November, 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 present pending application was filed on 28 June, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after 29 November, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 application, accompanies this decision on petition.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

---

[1] *See* 35 U.S.C. § 120.

This application is being forwarded to Technology Center Art Unit 1636 for appropriate action on the amendment and RCE filed on 22 December, 2003, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Charles A. Pearson
Director, Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DIGEO, INC. C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Loc Nguyen et al. :
Application No. 09/894,431 : DECISION ON REQUEST TO
Filed: June 27, 2001 : WITHDRAW AS ATTORNEY
For: ON-REMOTE-CONTROL EMAIL AND OTHER SERVICE INDICATOR METHODS, SYSTEMS AND DEVICES :

This is a decision on the Request to Withdraw as Attorney/Agent of record received September 28, 2001 .

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.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney requesting withdrawal was not of record.

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.

The file is being returned to TC 2600 central files to await action examination in appropriate turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 24 2003

Paper No. 6

In re Application of :
Linlee Blake Nelson : DECISION ON PETITION
Application No. 09/894,432 :
Filed: June 26, 2001 :
Attorney Docket No. P0113

This is a decision on the petition filed by facsimile transmission on December 9, 2003 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated July 31, 2002. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed as being untimely filed.

The record shows that a Notice of Abandonment was mailed to the correspondence address of record on March 24, 2003. The instant petition was filed almost nine months later.[1] Pursuant to MPEP § 711.03(c), a petition to withdraw the holding of abandonment that is not filed within two months of the date of a properly addressed Notice of Abandonment will be dismissed as being untimely under 37 CFR 1.181(f) absent a proper terminal disclaimer.

Petitioner may file a renewed petition, without fee. The renewed petition may take the form of a proper terminal disclaimer, the fee therefor, and a request for consideration of the instant petition on its merits. Petitioners are advised that MPEP § 711.03(c) reads in pertinent part:

> "Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR § 1.181(f), ... the Office may treat an untimely petition to withdraw the holding of abandonment on its merits in a utility or plant application filed on or after June 8, 1995, on the condition that the petition is accompanied by a terminal disclaimer **dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 USC §§ 120, 121, or 365(c). ... the terminal disclaimer must also apply to any patent granted on any application that claims the benefit of the filing date of the application under 35 USC §§ 120, 121, or 365(c).** ... Where a petition to withdraw the holding of abandonment is granted, the application is considered to never have been abandoned and, as such, the

[1]The petition was accompanied by a facsimile transmittal letter which states that counsel's records reflect that the petition was filed by facsimile transmission in early October, 2003. However, the petition was not accompanied by evidence supporting this statement. Even if filed in early October, 2003, the petition would have been filed more than six months after the mailing date of the Notice of Abandonment.

prosecution delay caused by the treatment of the application as abandoned is not considered a per se failure to exercise due diligence. Thus a terminal disclaimer is required to avoid granting patent term extension under 35 USC § 154(b) due to prosecution delay caused by the treatment of the application as abandoned." (Emphasis supplied.)

Petitioner is advised that a proper terminal disclaimer includes the language emphasized in the material quoted above. This application is being retained in Technology Center 3700 pending the filing of a renewed petition, or other appropriate action by petitioner.

PETITION DISMISSED.[2]

E. Rollins-Cross, Director
Technology Center 3700

Burkhart & Burkhart
Patent Attorneys
940 Dakota Avenue
Whitefish, MT 59937

[2]As a courtesy, petitioner is advised that a cursory review of the petition shows that it appears to be grantable on its merits.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 28 2004

Paper No. 9

In re Application of :
Linlee Blake Nelson : DECISION ON
Application No. 09/894,432 : RENEWED PETITION
Filed: June 26, 2001 :
Attorney Docket No. P0113

This is a decision on the renewed petition filed on January 5, 2004 by which petitioner again requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated July 31, 2002. The renewed petition is being considered under 37 CFR 1.181, and no fee is required.

The original petition was dismissed as being untimely filed.

Petitioner has now submitted a proper terminal disclaimer in accordance with MPEP § 711.03(c), and the original petition has been reviewed on its merits. That review shows that a reply to the Office letter in question was in fact timely filed by reason of the 37 CFR 1.8(a) certificate of mailing affixed to the copy of the reply that was submitted as part of the original petition. See 37 CFR 1.8(b). Therefore, the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on October 31, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Burkhart & Burkhart
Patent Attorneys
940 Dakota Avenue
Whitefish, MT 59937

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL PORKSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD., 7TH FLOOR
LOS ANGELES CA 90025

COPY MAILED

NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Peroor K. Sebastian :
Application No. 09/894,448 :
Filed: June 28, 2001 :
Attorney Docket No. IOSPAN-003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 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** final agency action within the meaning of 5 U.S.C. § 704.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 21, 2006.

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/894,448	SEBASTIAN, PEROOR K.	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *4, 10-14, 24 and 31-33*.
   Claim(s) rejected: *1-3,5-9,15-24,26-30 and 34-38*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: In the examiner's opinion, all claims were in condition for allowance EXCEPT claim 40, which did not appear to contain all the intervening claims required in order for it to be an allowable claim.

STEVE M. D'AGOSTA
PRIMARY EXAMINER

11-14-07

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P.O. Box 1450
Alexandria, VA 22313-1450
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CLIENT 21058
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

COPY MAILED
DEC 12 2008

In re Application of	:	
Peroor K. Sebastian	:	
Application No. 09/894,448	:	DECISION ON PETITION
Filed: June 28, 2001	:	
Attorney Docket No. 21058/0209561-USO	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 20, 2006, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 30, 2008.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CLIENT 21058
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

COPY MAILED
DEC 12 2008

In re Application of
Peroor K. Sebastian
Application No. 09/894,448
Filed: June 28, 2001
Attorney Docket No. 21058/0209561-USO

DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 20, 2006, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 30, 2008.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Browning Bushman
Suite 1800
5718 Westheimer
Houston, TX 77057-5771

COPY MAILED

SEP 23 2002

OFFICE OF PETITIONS

In re Application of
DeLange, et al.
Application No. 09/894,457
Filed: June 28, 2001
Attorney Docket No. GP-39-2
For: THREADED CONNECTION FOR INTERNALLY CLAD PIPE

ON PETITION

This is a decision on the petition for an extension of time under 37 CFR 1.136(a), filed August 19, 2002 (certificate of mailing date of August 12, 2002). This is also a decision on the petition to revive under 37 CFR 1.137(b), filed September 3, 2002.

A non-final Office action was mailed February 13, 2002 in the above-referenced application. The non-final Office action set a three (3) month shortened statutory period of time for reply. The period of time for reply was extendible by three (3) months under the provisions of 37 CFR 1.136(a). Hence, a reply could have been timely filed without an extension of time from February 14, 2002 until May 13, 2002, or, with an extension of time from May 14, 2002 to August 13, 2002.

A reply to the non-final Office action and a petition for extension of time under 37 CFR 1.136(a) were received in the Office on August 19, 2002. The reply and the petition for extension of time bore a certificate of mailing date of August 12, 2002 in accordance with 37 CFR 1.8.

Accordingly, the reply is deemed timely submitted as the petition for extension of time under 37 CFR 1.136(a) is hereby **GRANTED**.

At the time of submission of the petition to revive under 37 CFR 1.137(b), the application was not in fact abandoned. Accordingly, the petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The previously submitted petition to revive filing fee of $1,280.00 has been refunded to Deposit Account No. 02-4345. The required petition for extension of time filing fee of $920.00 has been charged to Deposit Account No. 02-4345.

This application will be forwarded to Technology Center 3600 for further processing of the Amendment submitted August 19, 2002 (certificate of mailing date of August 12, 2002).

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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	2 Serial/Patent # 09-894457

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	6	9-3-02	$ 36
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND	$

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 02--4345

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition MOOT

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: AM BROWN TITLE: AHy

SIGNATURE: PHONE: 305 03/0

OFFICE:

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 9/23/02

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)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050824

DATE : August 24, 2005

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction on Patent No.: 6,863,313

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:

Nothing present in file to indicate why this "correction" has been submitted. Further, there is no claim number for this claim and it depends from a claim that does not exist in the patent. Nevertheless, review of the file reveals that the instantly proposed claim on the C of C was original claim 52 that was renumbered to be patent claim 16 and review of the patent reveals that patent claim 16 is word for word application claim 52 allowed by the examiner (and also word for word identical to the claim presented on the C of C). Therefore, no error seen to be present and any inclusion of the claim now being proposed would introduce ambiguity at worst and be a duplicate claim at best.

Daniel P Stodola

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office
DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Faegre & Benson LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver CO 80203-4532

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OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Tim Millet	:	DECISION ON PETITION
Application No. 09/894,471	:	
Filed: June 28, 2001	:	
Attorney Docket No. 1384.015US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed December 14, 2004, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on March 15, 2005. On August 8, 2005, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2154.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Jeffrey C. Hood
Conley, Rose & Tayon, P.C.
P. O. Box 398
Austin, TX 78767-0398

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:
Darren Schmidt, et al.	: PETITION DISMISSING PETITION
Application No. 09/894,497	: UNDER 37 CFR 1.183 TO WAIVE
Filed: June 28, 2001	: THE PROVISIONS OF 37 CFR 1.67(a)
Attorney Docket No. 5150-52200	:

This is in response to the petition under 37 CFR 1.47(a), filed January 10, 2005, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a) for a declaration executed by all the inventors.

The petition is **DISMISSED AS MOOT**.

The oath or declaration originally filed with the application, which was signed by Ram Rajagopal, listed his citizenship as "USA." Mr. Rajagopal crossed out "USA" and handwrote "Brazil" as the citizenship, but failed to initial the correction. In view thereof, the Notice of Allowability mailed October 8, 2004 required submission of a substitute oath or declaration executed by Ram Rajagopal.

The instant petition under 37 CFR 1.47(a) requests the Office accept the submission of a supplemental declaration by less than all the inventors, since petitioner cannot obtain the signature of Mr. Rajagopal.

MPEP § 603, provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." Therefore, the submission of a petition under 37 CFR 1.47(a) is not the appropriate avenue of relief in this instance. Accordingly, the petition has been treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a) for a supplemental declaration executed by all the named inventors.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for 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

Scientific-Atlanta, Inc.
Intellectual Property Dept. MS 4.3.518
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

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OCT 0 6 2006

OFFICE OF PETITIONS

In re Application of Rodriguez et al. :
Application No. 09/894,508 : Decision on Petition
Filing Date: June 28, 2001 :
Attorney Docket No. A-7371 :

This is a decision on the petition under 37 CFR 1.137(a) filed June 29, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed.**

Facts:

The application was filed on June 28, 2001.

The transmittal letter filed June 28, 2001, instructed the Office to send correspondence to the address associated with customer no. 05642. The Office entered the address associated with the customer number as the address of record. The address of record was,

SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Papers filed September 10, 2001, and September 6, 2005, indicated correspondence should be sent to:

Scientific-Atlanta, Inc.
Intellectual Property Dept. MS 4.3.518
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

The Office did not change the address of record.

A Notice of Non-Compliant Amendment was mailed September 6, 2006. The fact the transmittal sheet was not scanned into the image file wrapper is not proof the Notice was never mailed. The Office assumes the Notice was mailed to the "incorrect" address.

The Office failed to receive a reply to the Notice.

A Notice of Abandonment was mailed June 13, 2006.

Discussion:

Normally a showing the Office mailed a Notice to an incorrect address, without additional evidence, would result in the withdrawal of the holding of abandonment. However, the "incorrect" address only slightly differs from the correct address for the application. Therefore, additional evidence should be filed.

To establish non-receipt of the Notice, the request for reconsideration should:

(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made, and
(4) include a copy of the docket record where the Office action would have been entered had it been received.

The Office notes the address of record has been changed to the address listed on the petition.

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(a)."

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Scientific-Atlanta, Inc.
Intellectual Property Dept. MS 4.3.518
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

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APR 23 2007

OFFICE OF PETITIONS

In re Application of Rodriguez et al. :
Application No. 09/894,508 : Decision on Petition
Filing Date: June 28, 2001 :
Attorney Docket No. A-7371 :

This is a decision on the petition under 37 CFR 1.137(a) filed January 8, 2007.

The petition under 37 CFR 1.137(a) is **granted**.

A Notice of Non-Compliant Amendment was prepared on or before September 6, 2006. The Notice was either not mailed or mailed to an incorrect address. The evidence indicates the Notice was probably not mailed. However, regardless of the reason, petitioner has established non-receipt of the Notice.

Due to failure to receive the Notice, petitioner did not file a reply to the Notice.

A Notice of Abandonment was mailed June 13, 2006.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

Technology Center Art Unit 3625 will be informed of the instant decision and the examiner will review the reply filed June 29, 2006, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
James P. Kardach	:	DECISION
Application No. 09/894,520	:	ON PETITION
Filed : June 27, 2001	:	
Attorney Docket Number:	:	
42390P11689	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 27, 2006 (Certificate of Mailing dated march 23, 2006), to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed August 24, 2005. The Office action set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned November 25, 2005. A Notice of Abandonment was mailed March 22, 2006.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2876 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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

MICHAEL J MALLIE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Boliek, et al. :
Application No. 09/894,524 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 074451.P134 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed October 14, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on March 22, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center 2100 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 9

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

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Boliek, et al. :
Application No. 09/894,524 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 074451.P134 :

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 21, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on June 27, 2001, with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On April 11, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on June 27, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

The petition fee of $1300 has been refunded to Deposit Account No. 02-2666.

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[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)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2143, for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Mail Date: 04/21/2010

Applicant	: Martin Boliek	: DECISION ON REQUEST FOR
Patent Number	: 7581027	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/894,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/09

TO SPE OF : ART UNIT 1647 Rao Manjunath (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/894550 Patent No.: 7491516

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

SPE

1647
Art Unit

#9
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB - 2 2004

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ALEXANDRIA, VA 22313-1450
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MAILED

FEB - 2 2004

OFFICE OF THE DIRECTOR
TC 3600

James Lars Anderson
7976 South 3685 West
West Jordan, UT 84088

In re Application of
James Lars Anderson
Application No. 09/894,575
Filed: June 28, 2001
For: MESH-BACKED LAWN SOD AND APPARATUS FOR PRODUCING THE SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on September 30, 2003

The petition is **DENIED.**

A review of the file record indicates that this application was held abandoned for failure to timely respond to the Office action mailed on January 22, 2003, and a Notice to that affect was mailed to applicant on August 27, 2003.

Applicant alleges that a response was sent to the Office by facsimile transmission on January 29, 2003. Applicant has provided as evidence of sending the response a facsimile transmission report highlighting the date and number to which the response was sent. Facsimile transmission reports cannot be relied upon as proof of timely filing because the data thereon may be altered by applicant and therefore cannot be considered to constitute a certified response from applicant. See section 512 of the MPEP.

Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedure outlined in the attached guide on Certificate of Mailing/Transmission for any future communication with the Office.

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

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.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

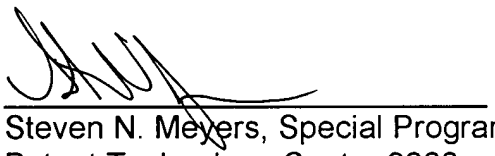
Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy
P.O. Box 1450
Alexandria, VA 22313-1450

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

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868. Telephone inquiries regarding Petitions to Revive should be directed to the Office of Petitions Staff at (703) 305-9282.



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

SNM/cps: 1/14/04

Attachment: Guide on Certificate of Mailing/Transmission

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner of Patents and Trademarks, Washington, D.C. 20231" on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)___-____on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.
For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.
In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J. David Nelson
Nelson Snuffer Dahle & Poulsen, PC
10885 South State Street
Sandy, Utah 84070

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of
JAMES LARS ANDERSON
Application No.: 09/894,575
Attorney Docket No.: None

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

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 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 January 22, 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, by operation of law, the above-identified application became abandoned at midnight on February 22, 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 response to requirement for Restriction and Election, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 22, 2003 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3644.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Brian Hearn
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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FROM DIRECTOR'S OFFICE

FEB 16 2007

TECHNOLOGY CENTER 3600

Justin Liu
Xilinx, Inc.
Attn: Legal Department
2100 Logic Dr.
San Jose, CA 95124

In re Application of :
Jane Ellen Vaillancourt et al. : DECISION ON PETITION
Application No. 09/894,577 : UNDER 37 CFR §1.59
Filed: June 29, 2001 :
For: Method for Routing and Responding to :
Sales Leads Between Two Organizations:

This is a decision on the petition under 37 CFR 1.59(b), filed November 15, 2006, to expunge information from the above identified application.

The petition is **GRANTED**.

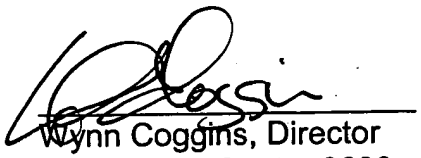
Petitioner requests that the documents submitted with the document titled Amendment in Response to First Office Action After Request for Continuing Examination (Exhibits 1-19) filed November 15, 2006, Under 37 CFR 1.56 and MPEP 742 and 724.02, filed June 29, 2001, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

This application is being forwarded to Publishing for processing into a patent.

Any questions regarding this letter should be directed to Tariq Hafiz at (571) 272-6729.



Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

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

September 17, 2007

Patent No.: 7,060,149 B2
Applicant : Alexander Albert E. Ortega, et al.
Issued : June 13, 2006
For : **NOVEL NONWOVEN FABRICS WITH ADVANTAGEOUS PROPERTIES**

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 .

It is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322.

Therefore, your request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 305-8309 or (703) 308-8331

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

AJ

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Patent No. 7,089,497 :
Issue Date: August 8, 2006 :
Application No. 09/894,641 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. 294438020US2 :

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

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Edmund J. Walsh
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/02/06

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/894661** Patent No.: **6967987**

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**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Chiel Mi Fan 2611

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/05

TO SPE OF : ART UNIT **3751**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/894704 6920654

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:

OK

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE 16/15/07 Art Unit

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)
6372131	2002-04-16	09894752	2001-06-28	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/P. D. Mirowsky/	Date (YYYY-MM-DD)	2010-04-19
Name	Paul D. Mirowsky		

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. 6372131
Issue Date: April 16,2002
Application No. 09894752
Filed: June 28,2001
Attorney Docket No. BNA-101A

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

This is a decision on the electronic petition, filed April 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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OCT 16 2008

OFFICE OF PETITIONS

In re Application of :
Masayuki Chatani :
Application No. 09/894,793 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. PA171US :

This is a decision on the petition filed February 20, 2008, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed November 17, 2005 be withdrawn. The $400 petition fee has been received.

The petition is granted.

The terminal disclaimer does not apply to any claim currently of record because the double patenting rejection was withdrawn because the double patenting rejection was deemed inappropriate in view of applicant's remarks and the recited claim language. Accordingly, the terminal disclaimer is withdrawn.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3208

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Maenpaa : DECISION ON PETITION
Application No. 09/894,803 :
Filed: June 29, 2001 :
Atty. Dkt. No.: TU1.P29 :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 29, 2004.

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

This application became abandoned June 9, 2004 for failure to timely submit a proper reply to the final Office action mailed March 8, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was submitted. Notice of Abandonment was mailed October 1, 2004.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action mailed March 8, 2004 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 3700 for processing of the RCE submitted herewith.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

JUN 30 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Albert S. Michalik, PLLC
704 228th Avenue NE
Suite 193
Sammamish WA 98074

In re Application of
Ron J. Kadlec, et al.
Application No. 09/894,824
Filed: June 28, 2001
For: **METHOD AND SYSTEM FOR REPRESENTING AND DISPLAYING DIGITAL INK**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the request for re-mailing filed April 4, 2005, which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

This application is held abandoned for failure to timely file a response to the non-final Office action mailed March 12, 2004. A Notice of Abandonment was mailed October 6, 2004.

Petitioner asserts that the non-final Office action was not received due to an incorrect address. Petitioner states that a power of attorney and change of correspondence address was submitted on May 16, 2002.

The petition fails to comply with MPEP §711.03(c) for a successful petition to withdraw the holding of abandonment. Petitioner failed to supply a copy of their docket record with explanation of said record and also failed to attest of a personal search of their file jacket and docket records for the Office action.

However, a review of the application file reveals the Change of Correspondence address was received on May 20, 2002 and is part of the file record. The file record also reveals that the non-final Office action was mailed to an incorrect address. In addition, the file record reveals that the content of the Office action was returned to the Office given that the time period for forwarding mail had expired. Given that the non-final Office action was mailed to an incorrect address and returned to the Office, there was an obvious irregularity in the mailing of the Office communication.

Thus, the application was not abandoned in fact. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED**.

Given the time lapse from the mailing of the non-final Office until the date of this decision, the application will be returned to the examiner to update as appropriate, their search and to prepare a new Office action for mailing. The time period for response to the non-final Office action will be reset to run from the date of mailing of the new Office action. The Office action mailed on March 12, 2004 is hereby vacated.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON DC 20036-2402

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MAY 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Franz Treue, et al. :
Application No. 09/894,831 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. MTEC009/00US (0129.00US):

This is a decision in response to the petition, filed December 21, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected drawings on or before September 15, 2006, as required by the Notice of Allowability, mailed June 15, 2006. A Notice of Abandonment was mailed on December 1, 2006. In response, on December 21, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

It is noted that the person signing the instant petition is not an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of William S. Galliani appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Galliani desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application is being referred to the Office of Publications to oversee the review of the drawing filed December 21, 2006 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM GALLIANI
COOLEY GODWARD LLP
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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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STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of :
Shui-On Leung et al :
Serial No.: 09/894,839 : WITHDRAWAL OF ATTORNEY
Filed: June 29, 2001 :
Attorney Docket No.: 018733-1049 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

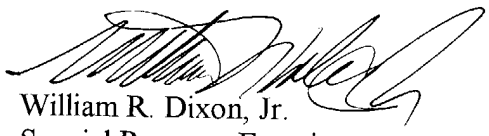
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

Marcella Lillis
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

Mail Date: 04/21/2010

Applicant	: Xavier Paliard	: DECISION ON REQUEST FOR
Patent Number	: 7638679	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/894,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6634484	2003-10-21	09894855	2001-06-28	1979.002US1

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	/Robert B. Madden/	Date (YYYY-MM-DD)	2008-03-03
Name	Robert B. Madden	Registration Number	57521

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. 6634484
Issue Date: October 21,2003
Application No. 09894855
Filed: June 28,2001
Attorney Docket No. 1517.0025US1

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

This is a decision on the electronic petition, filed March 3,2008 ,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 3,2008 . 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
DIW Mar-06

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

COPY MAILED

MAR 10 2006

OFFICE OF PETITIONS

In re Patent No. 6,829,753	:	
Issued: 7 December, 2004	:	
Application No. 09/894,857	:	ON PETITION
Filed: 27 June, 2001	:	
Atty Docket No. 020174-005000US	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 30 September, 2005.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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**.

Small entity status will no longer apply.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 10 2006

OFFICE OF PETITIONS

In re Patent No. 6,885,982	:	
Issued: 26 April, 2005	:	
Application No. 09/894,858	:	ON PETITION
Filed: 27 June, 2001	:	
Atty Docket No. 020174-006800US	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 29 September, 2005.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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**.

Small entity status will no longer apply.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAY 19 2006

OFFICE OF PETITIONS

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
John T. Chapman et al :
Application No. 09/894,864 : ON PETITION
Filed: June 27, 2001 :
Attorney Docket No. CISCP230 :

This is a decision on the petition, filed May 18, 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 April 24, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2115 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
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 5

DORITY & MANNING, ATTORNEYS AT LAW, P.A.
P.O. Box 1449
Greenville SC 29602

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Butler et al. :
Application No. 09/894,870 : ON PETITION
Filed: 28 June, 2001 :
Attorney Docket No. CXU-339 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 31 July, 2001, to revive the above-identified application. The petition is **GRANTED**.

This application became abandoned on 31 July, 2001, for failure to timely submit the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing as required by the Notice to File Missing Parts

---

[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)).

of Nonprovisional Application, mailed on 21 August, 2001, which set a two-(2) month period for reply. The present petition precedes the mailing of Notice of Abandonment.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

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

D Wood

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

09/894880

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-18-05

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction on Patent No.: 6890322

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 claims

Thank You For Your Assistance

E Young
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:

Column 7, line 58, claim 1 → not found in line 58 and would change scope of claim.

SPE

3763
Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 5/6/05

rld

In re application of	:	
Tanabe et al.	:	DECISION ON
Serial No. 09/894,885	:	PETITION
Filed: June 29, 2001	:	
For: EL ELEMENT	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED, mailed January 31, 2005. The petitioner requests that the abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn. The requester asserts that the Notice of Allowance was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed September 14, 2004. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Issue Fee Due, mailed September 14, 2004, was not received, and a statement that a search of the file jacket and docket records indicate that the Notice of Allowance and Issue Fee Due was not received. Petitioner has also provided a copy of the application docket records where the Notice of Allowance would have been posted had it been timely received.

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

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Steven M. Gruskin
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue
Washington DC 20037

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of
Parnes & Frankel
Application No.: 09/894,897
Filed: June 29, 2001
Attorney Docket No.: Q65275
For: FORK LIFT APPARATUS ADAPTED TO BE COUPLED TO A TRUCK

ON PETITION

This is a decision on (1) the petition under 37 CFR 1.47(a), filed June 19, 2002 (postcard receipt date March 14, 2002), (2) the Response to Notice to File Missing Parts of Reissue Application, filed June 19, 2002 2002 (postcard receipt date March 14, 2002), which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, and (3) the petition under 37 CFR 1.183 for suspension of the rules to change the correspondence address of record, despite a withdrawal of attorneys, filed September 3, 2002.

The petition under 37 CFR 1.47(a) to allow Nachum Frankel to proceed with the prosecution of the application without Baruch Parnes' involvement is **dismissed**.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted**.

The petition under 37 CFR 1.183 to change the correspondence address is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 29, 2001 without an executed oath or declaration. Accordingly, on August 14, 2001, a "Notice to File Missing Parts of Reissue Application" was mailed, requiring an executed oath or declaration, consent of assignee, filing fees, and a surcharge for their late filing.

Petition under 37 CFR 1.47(a)

On June 19, 2002 (postcard receipt date March 14, 2002), a petition for a five month extension of time and required fee, a declaration one of two joint inventors, the consent of assignee, the surcharge, application filing fees, the petition fee, and the instant petition were filed. A declaration of facts of Baruch Shani accompanied the petition. Mr. Shani explains that non-signing joint inventor, Baruch Parnes, received a copy of the above-identified application, but refused to sign the declaration for the reissue application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above and is **dismissed**.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not contain any information for Baruch Parnes. The Office requires applicants to list their name, residence, mailing address, and citizenship. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a). Mr. Nachum Frankel must execute a new declaration that contains the required information for Mr. Baruch Parnes, as well as Mr. Frankel's information.

Petition under 37 CFR 1.181

Petitioners filed a "Response to Notice to File Missing Parts of Reissue Application" on June 19, 2002 (postcard receipt date March 14, 2002) in response to the Notice to File Missing Parts of Reissue Application, mailed August 14, 2001, and the Notice of Abandonment, mailed February 26, 2002. The June 19, 2002 correspondence is being treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice, mailed August 14, 2001. The Office had no record of receiving any response until June 19, 2002. The Office contended that the application became abandoned on October 15, 2001. A Notice of Abandonment was mailed on February 26, 2002.

Petitioners allege that the reply to the August 14, 2001 Notice was timely filed. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode showing March 14, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included all items required by the August 14, 2001 Notice, except the claim fee for filing one additional independent claim over three.[1] The March 14, 2002 filing contained a request for a 5 month extension of time and required fee, as well.

The return postcard constitutes *prima facie* evidence that petitioners timely replied to the August 14, 2001 Notice on March 14, 2002. MPEP 503. Accordingly, the petition under 37 CFR 1.181 is **granted**. The application never went abandoned and the Notice of Abandonment is hereby withdrawn.

---

[1] It is noted that the August 14, 2001 Notice required the submission of $80.00 for filing one independent claim over three. A review of the application as filed and the Preliminary Amendment, both filed June 29, 2001, reveals that only 2 independent claims are present. Accordingly, the August 14, 2001 Notice is **vacated** insofar as it pertains to the additional claim fee. Petitioners June 19, 2002 (postcard receipt date March 14, 2002) reply was complete.

Petition under 37 CFR 1.183

The former attorney of record filed a request under 37 CFR 1.183 on September 3, 2002 to change the correspondence address of record from the Sughrue law firm to one of inventors of the present application. The Request for Withdrawal as Attorney, filed on December 31, 2001 and accepted on February 13, 2002, did not request that the correspondence address be changed. Currently, the former attorney of record does not have the power to change the correspondence address of record. MPEP 37 CFR 1.33(a) and 1.33(b).

37 CFR 1.183 states that:

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

Regarding petitioners' request for an extraordinary remedy under 37 CFR 1.183, the Office will not normally consider an extraordinary remedy, where, as here, the rules of practice already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982).

Petitioners are required to file a reconsideration petition under 37 CFR 1.47(a) and a newly executed declaration. The newly executed declaration should specify a correspondence address. Given the circumstances of this case, it is in the inventors' and assignee's best interest to submit a correspondence address other than the Sughrue firm, whose members are no longer attorneys of record in this case.

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

A copy of this decision is being mailed to the current correspondence address of record and one of the inventors, Mr. Nachum Frankel. Mr. Frankel is urged to obtain the services of a registered attorney or agent in further prosecution.

Correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

E. Shirene Willis

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

cc: MR. NACHUM FRANKEL
OFAKIM NERHAVIM CONSTRUCTION AND INVESTMENTS 1990 LTD.
63 BAR KOCHVA STR.
PETACH-TIKVA, 49220
ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Parnes & Frankel :
Application No. 09/894,897 : DECISION ACCORDING STATUS
Filed: June 29, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No.99702-0001 :
For: FORK LIFT APPARATUS ADAPTED TO BE COUPLED TO A TRUCK

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed March 28, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Baruch Parnes, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Tova Cohen and Ajit J. Vaidya establish that the inventor was hand delivered the application papers, including the specification, claims and drawings, but orally refused to 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.

A review of Office financial records reveals that petitioner has paid two $130.00 petition fees. Only one is required. Petitioner's deposit account no. 50-1349 will be credited one of the two fees.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
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

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JUN 18 2008

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Patent No. RE39997 :
Issue Date: January 8, 2008 :
Application No. 09/894,897 : NOTICE
Filed: June 29, 2001 :
Attorney Docket No. 9702-0001 :

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 Wise at (571) 272-1642.

Carl Friedman
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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/894,956	06/27/2001	William Michael Lafferty	DIVER1280-14

CONFIRMATION NO. 7268

28213
GARY CARY WARE & FRIENDENRICH LLP
4365 EXECUTIVE DRIVE
SUITE 1600
SAN DIEGO, CA 92121-2189

OIPE
SEP 25 2001
JC26
PATENT & TRADEMARK OFFICE

FORMALITIES LETTER

OC000000006325213

Date Mailed: 07/20/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

355.00 OP
207.00 OP
240.00 OP
65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $447.
  - $**207** for **23** total claims over 20.
  - $**240** for **6** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 867.**

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

Sector 1600

PATENT
Attorney Docket No.: DIVER1280-14

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	William Michael Lafferty	Art Unit:	1645
Application No.:	09/894,956	Examiner:	Unassigned
Filed:	June 27, 2001		
Title:	CAPILLARY ARRAY-BASED SAMPLE SCREENING		

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice to File Missing Parts of Application mailed July 20, 2001, enclosed are:

1. A copy of the Notice to File Missing Parts of Application (1 page);
2. An executed Declaration For Patent Application (2 pages);
3. An executed Power of Attorney by Assignee (2 pages);
4. Check in the amount of $867.00;
5. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on September 20, 2001, in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231

Karen LePare

Karen LePari

Gray Cary\GT\6257235.1
104703-101

Applicants claim small entity status in the above-identified application. Pursuant to 37 C.F.R. § 1.27, a verified statement claiming small entity status is not required.

The filing fee has been calculated as follows.

	Number Filed		Number Extra		Rate			Fee	
					Large Entity	Small Entity		Small Entity	Large Entity
Total Claims	43-20	=	23	X	$18	$09	=	$207.00	$ 0.00
Independent Claims	9-3	=	6	X	$80	$40	=	$240.00	$ 0.00
Multiple Dependent Claims Presented: ☒Yes ☐ No					$270	$135		$00.00	
					BASIC FEE			$355.00	$720.00
					TOTAL FEE			$802.00	$ 0.00

XX Enclosed is a check in the total amount of $867.00 which includes $802.00 as filing fee and $65.00 as payment for the surcharge fee for missing parts of the application. The Commissioner is hereby authorized to charge any other fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: September 20, 2001

Lisa A. Haile, J.D., Ph.D.
Registration No.: 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1600
San Diego, California 92121-2189
USPTO Customer Number 28213

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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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Michoel SOROTZKIN :
Application No. 09/894,966 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. **071.0001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before March 09, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 10, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the

burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (Over 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 10, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Erik B. Cherdak of Arent Fox was counsel of record at the time of abandonment, the attorney should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed. When did the attorney become aware of the abandonment of this application?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), involved with this application at the time of abandonment. Statements are required from any and the person(s)having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):
Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or

where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

Any renewed petition may be addressed as follows:

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

The power of attorney submitted with the petition on April 28, 2009 has been processed and made of record.

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

Ramesh Krishnamurthy
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

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

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DEC 0 7 2009

OFFICE OF PETITIONS

In re Application of :
Michoel Sorotzkin :
Application No. 09/894,966 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. **SOROTZ 0002-US** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 09, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 09, 2005. Accordingly, the date of abandonment of this application is March 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being 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 Tredelle Jackson at (571) 272-2783.

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

Ramesh Krishnamurthy
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

FISH & RICHARDSON P.C.
3300 Dain Rauscher Plaza
Minneapolis, MN 55402

MAILED

APR 0 4 2005

Technology Center 2100

In re Application of:
Donald J. SPENCER, et al.
Application No. 09/894,972
Filed: June 27, 2001
For: SECURE MUSIC DELIVERY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed January 14, 2005.

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

The request is **GRANTED**.

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

FOR

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

cc: MacPherson Kwok Chen & Heid LLP
1762 Technology Drive
Suite 226
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

MAILED

APR 15 2005

Technology Center 2100

In re Application of:
Donald J. SPENCER, et al.
Application No.: 09/894,976
Filed: June 27, 2001
For: CLOSED-LOOP DELIVERY TO INTEGRATED DOWNLOAD MANAGER

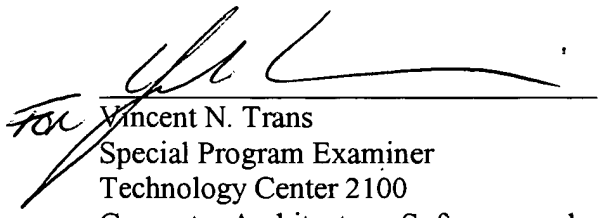
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed January 14, 2005.

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

The request is **GRANTED**.

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



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

cc: MacPherson Kwok Chen & Heid LLP
1762 Technology Drive
Suite 226
San Jose, CA 95110

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

Fulwilder Patton Lee & Utecht
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

COPY MAILED
FEB 26 2004
OFFICE OF PETITIONS

In re Application of
Stephen D. Ainsworth
Application No. 09/894,984
Filed: June 28, 2001
Attorney Docket No. ACS-55940
2645P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application mailed August 22, 2001, which set a period for reply of (2) two months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 23, 2001.

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

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SAN JOSE, CA 95164-0640

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JUL 05 2005

OFFICE OF PETITIONS

In re Application :
Boronkay, et al. :
Application No. 09/894,985 : PATENT TERM ADJUSTMENT
Filed: June 27, 2001 :
Dkt. No.: IMMR-VTI0017A :

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT," filed December 20, 2004. This request is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 287 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals that an adjustment of 282 days under 37 CFR 1.702(a)(1) was attributable to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began August 28, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended June 5, 2003, the date the non-final Office action was mailed.

The Office errantly entered February 19, 2002 as the date a reply to the Notice to File Missing Parts of Nonprovisional Application was filed rather than January 10, 2002, the date the response was in fact received.

Accordingly, the adjustment of 282 days is reduced 49 days, rather than 89 days, in accordance with 37 CFR 1.704(b). The reduction began November 23, 2001, the day after the date that is three months after the date of mailing of the Notice to File

Missing Parts of Nonprovisional Application, and ended January 10, 2002, the date the reply was submitted.

The Office errantly entered December 9, 2003 as the day a response to the non-final Office action was submitted rather than September 4, 2003, the date the response was timely received as evidenced by the copy of the stamped and dated postcard evidencing receipt of the response by the Office.

As a response to the non-final Office action was timely submitted September 4, 2003, an additional adjustment of 54 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). The delay began January 5, 2004, the day after the day that is four months after the date the response to the non-final Office action was submitted, and ended February 27, 2004, the date the final Office action was mailed. *See*, 37 CFR 1.703(a)(2).

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 287 days.

The required application fee of $200.00 has been charged to Deposit Account No. 50-1283.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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Erik B. Cherdak
Arent Fox
1050 Connecticut Avenue, Suite 400
Washington, DC 20036

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Birch et al.
Application No. 09/895,011
Filed: June 28, 2001

Attorney Docket No.: 026735-00004 (068.0003)

Title of Invention: System for Facilitating Pricing, Sale Distribution of Fuel to Customer

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005 to revive the above-identified application.

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on February 10, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 11, 2004. A Notice of Abandonment was mailed on October 20, 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(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). Petitioner must submit a reply to the February 10, 2004 Office Action with the 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 facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Washington, DC 20036

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of
Morrison et al.
Application No. 09/895,011
Filed: June 28, 2001
Attorney Docket No.: 026735-00004 (068.0003)
Title of Invention: System for Facilitating Pricing, Sale Distribution of Fuel to Customer

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 27, 2005 to revive the above-identified application. On renewed petition, petitioner advances a new argument that the February 10, 2004 Office action was never received and requests that the time period for reply be restarted. This request will be treated under 37 CFR 1.181.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on February 10, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 11, 2004. A Notice of Abandonment was mailed on October 20, 2004.

This petition under 37 CFR 1.181 is **Dismissed**.

This petition under 37 CFR 1.137(b) is **Granted**.

Petition under 37 CFR 1.181

Petitioner asserts that the non-final Office Action mailed on February 10, 2004 was never received. Petitioner also states that a Notice of Abandonment mailed on October 20, 2004 was returned as undeliverable to the USPTO on October 29, 2004.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action as lost in the mail.

Here, petitioner has failed to present any evidence that the non-final Office action was not received. The non-final Office action was mailed to the correspondence address of record. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. See 37 CFR 1.33(a). A change of correspondence address was not submitted to the Office until January 21, 2005. If the non-final office action was not received because petitioner failed to timely submit a change of correspondence address, withdrawal of the holding of abandonment is not warranted. Further 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).

Accordingly, the request to withdraw the holding of abandonment and restart the time period for reply is dismissed.

Petition under 37 CFR 1.137(b)

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It should be noted this petition was submitted with sufficient time in which a five month

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

extension of time was available. The petition decision of March 14, 2005 provided petitioner with an extendable two month period of reply. Pursuant to 37 CFR 1.136 (a) an additional 5 months could have been purchased. However, since the five month extension of time could not be charged because Erik B. Cherdak is not an authorized user of deposit account 01-2300, the petition to revive will be treated.

This application is being forwarded to Technology Center 3600 for further processing of the Amendment submitted with the instant petition.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of	:
Christian Plank et al	:
Serial No.: 09/895,019	: PETITION DECISION
Filed: June 26, 2001	:
Attorney Docket No.: SONN:098US	:

This is in response to the petition under 37 CFR 1.181, filed October 10, 2006, requesting withdrawal of the Final rejection.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on August 24, 2005. Applicants replied by filing a Notice of Appeal and an Appeal Brief on January 23, 2006.

In response, the examiner mailed a new Final Office action to applicants on April 5, 2006, including within the body of the Office action a requirement for information under 37 CFR 1.105. Applicants replied to the Office action on October 10, 2006, by filing this petition and a reply to the Requirement for Information and a new Notice of Appeal and a Request for Pre-Appeal Brief Review.

Applicants' petition argues that the finality of the last Office action is improper based on the Requirement for Information under 37 CFR 1.105.

DISCUSSION

It is initially noted that this petition has been filed six months after the action (finality of an Office action) being complained of. 37 CFR 1.181(f) sets a two month period for requesting relief from an examiner's action. This petition could be dismissed on the basis of its untimeliness alone, however it will be considered on the merits also.

A review of the Office action mailed August 24, 2006, shows that the examiner set forth the following rejections (note – claims 13-18 and 22 are withdrawn as being directed to non-elected inventions):

A. Claims 1-2, 9-10, 20 and 23 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al (JMMM, April 1999, cited in IDS) in view of Taylor et al (US 5,831,062).
B. Claims 1, 3, 5 and 19 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al in view of Taylor (as above) in view of Chan et al (US 5,753,477).
C. Claims 1, 3 and 4 were rejected under 35 U.S.C. 103(a) in view of Lubbe et al in view of Taylor et al further in view of Chan et al (as above) and Boussif et al.
D. Claims 1, 8, 21 and 24 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al in view of Taylor et al and further in view of Dannenberg et al (US 6,200,760).

The examiner further indicated that these rejections had been previously made and further responded to applicants' arguments regarding them.

Applicants filed an Appeal Brief and included a footnote on page 3 thereof regarding the reference identified by the examiner as Lubbe et al, indicating that there were two references from the same journal each by the same two authors, but in which the order of names was reversed and questioned which reference was being used (see entire footnote for explanation).

In view of the apparent confusion over the reference being used in the rejections of record, the examiner withdrew the previous Final Office action and set forth a new Final Office action explaining the difference between the two references and redrafting the rejections of record to indicate clearly which Lubbe et al reference was being used, as follows:

A. Claims 1-2, 9-10, 20 and 23 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al (JMMM, April 1999, pages 149-155) in view of Taylor et al (US 5,831,062).
B. Claims 1, 3, 5 and 19 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al in view of Taylor et al (as above) and further in view of Chan et al (US 5,753,477).
C. Claims 1, 3 and 4 were rejected under 35 U.S.C. 103(a) in view of Lubbe et al in view of Taylor et al (as above) and further in view of Chan et al (as above) and Boussif et al.
D. Claims 1, 8, 21 and 24 were rejected under 35 U.S.C. 103(a) as unpatentable over Lubbe et al in view of Taylor et al (as above) and further in view of Dannenberg et al (US 6,200,760).

The examiner also set forth a Requirement for Information under 35 CFR 1.105 with respect to the Bergemann et al reference, JMMM, April, 1999, pages 45-52.

It is noted that the Requirement for Information is not with respect to any reference used in any of the rejections. The requirement was to confirm that the Bergemann et al reference was not pertinent since there was some doubt in the examiner's mind as to whether it should be applied or not. If the information provided indicates that the reference should be applied, a new non-Final Office action will be provided. If the information provided excludes the reference, the finality of the Office action was appropriate and no further action by the examiner will be required.

DECISION

The petition is **DENIED** as untimely and on the merits.

The application will be forwarded to the examiner for consideration of the amendment filed October 25, 2006, and for the Pre-Appeal Brief Review.

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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OFFICE OF PETITIONS

PATENT CAPITAL GROUP – CISCO
6119 MCCOMMAS
DALLAS, TX 75214

In re Application of :
Santosh S. Chandrachood :
Application No. 09/895,047 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. CISCO-4306 (032590-0165) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 8, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 October 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; 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 2446 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

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Patent Capital Group - Cisco
6119 McCommas
Dallas, TX 75214

Mail Date: 04/29/2010

Applicant	: Santosh S. Chandrachood	: DECISION ON REQUEST FOR
Patent Number	: 7610357	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/895,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1043** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL BUSINESS MACHINES CORP.
IP LAW
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SAN JOSE, CA 95141

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OFFICE OF PETITIONS

In re Application of :
William R. Belknap et al :
Application No. 09/895,055 : DECISION GRANTING PETITION
Filed: June 29, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SVL920010056US1 :

This is a decision on the petition, filed September 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 August 15, 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 2621 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). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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Paper No. 4

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
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LOS ANGELES, CA 90025

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OCT 1 2 2001

OFFICE OF PETITIONS

In re Application of :
Paul Winer et al :
Application No. 09/895,127 : NOTICE
Filed: June 29, 2001 :
Attorney Docket No. 42390P10076 :

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

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

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

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

This file is being forwarded to Initial Patent Examination Division to await a reply to the Notice mailed September 10, 2001.

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

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APR 29 2005

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA CA 91101

In re Application of	:
Seymor Benzer et al	:
Serial No.: 09/895,141	: PETITION DECISION
Filed: June 29, 2001	:
Attorney Docket No.: CITI560-1	:

This is in response to the petition under 37 CFR 1.181, filed February 8, 2005, for withdrawal of abandonment of the above identified application based on premature abandonment.

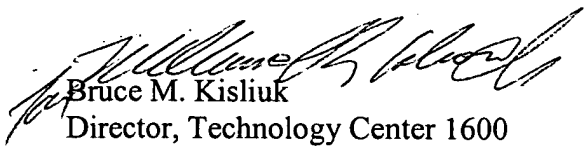
A review of the file history shows that the examiner mailed an Office action to applicants on October 7, 2004, setting a one month time period for reply. The examiner mailed a Notice of Abandonment to applicants on November 26, 2004, with an interview summary stating that the time period for reply had expired. However, the action mailed October 7, 2004, specifically states that extensions of time are available under 37 CFR 1.136(a). Thus the Notice of Abandonment mailed November 26, 2004, was mailed prior to the maximum six month time period for reply permitted and is hereby withdrawn.

A review of the reply filed April 15, 2004, which occasioned the Office action of October 7, 2004, a Notice of Non-Responsive Amendment, shows that it is actually responsive to the previous Notice of Non-responsive Amendment, mailed March 15, 2004. A delay of six months from receipt of an amendment to determination that the amendment is non-responsive is inappropriate, especially when it is a second Notice. A review of claim 1, as originally filed shows it is to a method for extending life span of a subject by administering an inhibitor of histone deacetylase. New claim 33 is to a method of extending life span of an organism by administering an inhibitor of histone deacetylase to increase activity of a specific gene encoding a protein. Claim 33 is a more narrow version of claim 1 as is to the same invention. The Notice holding that the amendment presenting this claim is Non-responsive, mailed October 7, 2004, is in error and is hereby withdrawn.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

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



Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Jason Benfield et al :
Application No. 09/895,143 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. AUS920010376US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of September 27, 2004, is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

This matter is being referred to Technology Center AU 2142.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Yip et al :
Application No. 09/895,145 : ON PETITION
Filed: June 30, 2001 :
Attorney Docket No. 2717P046 :
Title of Invention: Method and System for :
Increasing Participation in Standby Router
Protocol

This is a decision on the petition under 37 CFR §1.181 filed April 5, 2006 to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **Granted**.

This application was held abandoned March 10, 2005 for failure to timely reply to the non-final Office Action mailed on December 14, 2004. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed March 22, 2006.

Petitioner maintains that a response to the non-final Office Action and a request for a one month extension of time and check were mailed with a certificate of mailing dated April 14, 2005 and received in the Office on April 18, 2005. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply. Additionally, petitioner has supplied a copy of the previously mailed correspondence which contains a certificate of mailing pursuant to 37 CFR 1.8.

The response submitted April 14, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2100 for further processing.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: Michael Yip	: DECISION ON REQUEST FOR
Patent Number	: 7581024	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/895,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2517** 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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OFFICE OF PETITIONS

OLDS MAIER & RICHARDSON, PLLC
P.O. BOX 20245
ALEXANDRIA, VA 22320-1245

In re Application of :
David R. Brown et al :
Application No. 09/895,152 : ON PETITION
Filed: July 2, 2001 :
Attorney Docket No. 2119-0160P :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

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 July 7, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, one month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 8, 2004.

As to item (2), effective December 8, 2004 the fee for filing a petition to revive unintentionally abandoned application changed to $750 (small entity). Petitioner submitted $685 with petition on July 22, 2005, which leaves a balance of $65.

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 facsimile: (571) 273-8300
ATTN: Office of Petitions

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

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OLDS MAIER & RICHARDSON, PLLC
P.O. BOX 20245
ALEXANDRIA, VA 22320-1245

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OFFICE OF PETITIONS

In re Application of :
David R. Brown et al :
Application No. 09/895,152 :
Filed: July 2, 2001 :
Attorney Docket No. 2119-0160P :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 8, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 8, 2005.

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) 272-3210.

The matter is being referred to Technology Center AU 1756 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Mark E. Olds
MENS-0160-US
128 North Pitt Street, 2nd Floor
Alexandria, VA 22314

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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NOV 29 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Satoshi Hoshino
Application Serial No.: 09/895,173
Filed: July 2, 2001
For: **ELECTRONIC JOURNAL PREPARATION SYSTEM AND ELECTRONIC JOURNAL PREPARATION METHOD**

DECISION
ON PETITION

This is a decision on the petition filed November 10, 2005 and re-filed on November 17, 2005, pursuant to 37 CFR § 1.181 in regard to the Notice of Improper Request for Continued Examination (RCE).

Petitioner alleges that the Notice of Improper Request for Continued Examination dated October 27, 2005 is itself, improper. Petitioner states that two separate submissions were filed, one on August 8, 2005 and one on August 31, 2005, in response to the final Office action dated May 17, 2005. Furthermore, petitioner states that applicant checked the box on the request for continued examination form, filed October 13, 2005, requesting that previous amendments filed after the final Office action may be considered as a submission. Petitioner further urges that "..even if the supplemental amendment of August 31, 2005 was non-compliant...the remarks section of the Supplemental Amendment...constitutes a submission as required by 37 C.F.R. §1.114". Petitioner requests that the Notice of Improper Request for Continued Examination be withdrawn and that the RCE filed on October 13, 2005 be entered.

A review of the application file does in fact reveal two submissions subsequent to the final Office action of May 17, 2005. In an Advisory Action mailed September 6, 2005, the examiner indicated that the August 8, 2005 submission had been considered , but did not place the application in condition for allowance. In a separate Advisory Action mailed September 12, 2005, the examiner indicated that the August 31, 2005 amendment would not be entered as it raised new issues, and also noted that claim 7 was non-compliant as part of the claim was missing.

MPEP §706.07(h) [R-2] Request for Continued Examination (RCE) Practice, states in part:

> III. INITIAL PROCESSING
>
> D. Treatment of Proper RCE
>
> If the conditions for filing an RCE have been satisfied, the technical support personnel will process the >proper< RCE. Any previously filed unentered amendments, amendments filed with the RCE, and any amendments filed prior to the mailing of the next Office action (after the RCE) will normally be entered. **>All< amendments filed as of the date the RCE is filed are entered in the order in which they were filed >in the absence of any specific instructions for entry.
>
> VI. NOT FULLY RESPONSIVE SUBMISSION
>
> If reply to a final Office action is outstanding and the submission is not fully responsive to the final Office action, then it must be a bona fide attempt to provide a complete reply to the final Office action in order for the RCE to toll the period for reply..
>
> If the submission is a bona fide attempt to provide a complete reply, applicant should be informed that the submission is not fully responsive to the final Office action, along with the reasons why, and given a new shortened statutory period of one month or thirty days (whichever is longer) to complete the reply. See 37 CFR 1.135(c). Form paragraph 7.42.08 set forth below should be used.

> Situations where a submission is not a fully responsive submission, but is a bona fide attempt to provide a complete reply are:
>
> (A) Non-compliant amendment - An RCE filed with a submission which is an amendment that is not in compliance with 37 CFR 1.121, but which is a bona fide attempt to provide a complete reply to the last Office action, should be treated as a proper RCE and a Notice of Noncompliant Amendment should be mailed to the applicant. Applicant is given a time period of one month or thirty days from the mailing date of the notice, whichever is longer, to provide an amendment complying with 37 CFR 1.121. See MPEP § 714.03 for information on the amendment practice under 37 CFR 1.121. [emphasis added]

The Office's form PTO/SB/30, Request For Continued Examination (RCE) Transmittal states in part:

> Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
>
> Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked. [emphasis added]

Given that Applicant's response of August 8, 2005 was considered by the examiner, but did not place the application in condition for allowance, this response was entered and thus in accordance with MPEP §706.07(h)(III)(D), would not constitute a proper submission. However, in accordance with MPEP§706.07(h)(IV), the August 31, 2005 amendment was not entered, and thus would be considered a proper submission for an RCE. However, it is noted that the August 31, 2005 submission was non-compliant given the partial claim 7. Therefore, in accordance with MPEP §706.07(h)(IV)(A), given that this was a bona fide attempt to provide a complete reply, a time period of one month or thirty days from the date of mailing of a Notice of Non-Compliance should have been set in order to allow applicant to correct the issue.

Accordingly, applicant's petition to have the Notice of Improper Request for Continued Examination be withdrawn and the RCE filed on October 13, 2005 entered, is **Granted**.

The file is being forwarded to the Technology Center's Technical Support Staff to process the RCE request and to issue a Notice of Non-Compliance.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

#13

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FREDERICK W. GIBB, III
Gibb & Rahman, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

OCT 29 2007

In re Application of:
K. Paul Muller et al.
Serial No.: 09/895,198
Filed: July 2, 2001
Attorney Docket No.: YO999-247DIV

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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 August 15, 2003 and refiled via facsimile transmission on September 21, 2007. There is no fee for this petition.

The petition is **GRANTED**.

A final Office action was mailed on October 7, 2002. An after-final amendment was filed on December 6, 2002. An advisory action was mailed on January 2, 2003 indicating that the after-final amendment would not be entered because it raised new issues that would require further consideration and/or search. A Notice of Abandonment was mailed on July 28, 2003. Although the Notice of Abandonment indicates that the application was abandoned in view of applicant's failure to timely file a proper reply to the advisory action of January 2, 2003, it was actually held abandoned for failure to timely file a proper reply to the final Office action mailed on October 7, 2002.

A proper reply to a final rejection under 37 C.F.R. § 1.113 may only be either (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Petitioner asserts that a Request for Continued Examination (RCE) was timely filed in the United States Patent and Trademark Office (USPTO) via facsimile transmission on January 7, 2003. To support this assertion, petitioner has submitted a copy of the RCE which indicates the required submission under 37 C.F.R. § 1.114 to be the previously non-entered, after-final amendment of December 6, 2002. The copy of the RCE has a Certificate of Transmission dated January 7, 2003 signed by registered patent attorney/agent Frederick W. Gibb, III. In addition, petitioner has supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 1 page (which in this case was the RCE) was received at the USPTO on January 7, 2003.

A review of the application file record reveals that the original RCE is not of record in the application file and cannot be located. Further, Office records indicate that the fee for an RCE was not charged to the given Deposit Account.

A petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile transmission must the include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing: and

(2) A statement under 37 C.F.R. § 1.8(b)(3) attesting to the personal knowledge of the transmission of the original response on the date indicated on the Certificate of Transmission (see 37 C.F.R. § 1.8(b) and MPEP 512).

In most cases, the first page of the response shown on the Auto-Reply is not the total response. In the present case, since the first page shown on the Auto-Reply is the total response (i.e., the RCE) and the Auto-Reply indicates that the RCE was received at the USPTO on January 7, 2003, it is not necessary to satisfy requirement (2) above. Nevertheless, the practice at the USPTO is to construe the signed certification of facsimile transmission on the first page of the response shown on the Auto-Reply, as the statement noted in requirement (2) above.

Accordingly, the petition is granted. The Notice of Abandonment mailed on July 28, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The RCE filed with the petition will be processed by the Technology Center 2800 support staff and the examiner will be prepare an Office action responsive to the after-final amendment filed on December 6, 2002.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,235	06/28/2001	Lance W. Russell	10003532-1	8674

22879 7590 05/07/2009

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

EXAMINER	
BILGRAMI, ASGHAR H	

ART UNIT	PAPER NUMBER
2443	

NOTIFICATION DATE	DELIVERY MODE
05/07/2009	ELECTRONIC

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

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusek@hp.com

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Edouard Garcia
HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

MAILED

MAY 06 2009

TECHNOLOGY CENTER 2100

In re Application of: RUSSELL, Lance W.
Application No. **09/895,235**
Filed: June 28, 2001
For: MIGRATING RECOVERY MODULES IN A DISTRIBUTED COMPUTING ENVIRONMENT

DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on November 18, 2008, requesting to set aside (withdrawal) of non final office action mailed September 18, 2008, (herein after referred to as the "pending office action") and to reinstate the Appeal Brief that was pending at the time the pending non final office action was mailed.

This petition is hereby **GRANTED**.

RELEVANT HISTORY

05/12/05	Final Rejection is mailed.
08/12/05	First Notice of Appeal was filed in response to office action mailed 5/12/05.
10/13/05	First Appeal Brief was filed.
01/13/06	First office action in response to after appeal brief filed 10/13/05 was mailed.
04/07/06	Applicant's Reply in response to office action mailed 1/13/06 is filed.
07/03/06	Second Final office action is mailed in response to Applicant's reply filed 4/7/06.
08/25/06	Third Supplemental final office action is mailed.
12/01/06	Request for Continued Examination (RCE) is filed in response to action mailed 8/25/06.
02/08/07	Non-final office action was mailed in response to RCE filed 12/01/06.

05/07/07 Applicant's Reply in response to office action mailed 2/08/07 is filed

07/31/07 Final office action was mailed in response to Applicant's reply filed 5/7/07.

10/31/07 Second Notice of Appeal Brief is filed in response to action mailed 07/31/07.

12/20/07 Second Appeal Brief is filed in response to Notice of Appeal filed 10/31/07.

03/20/08 Non-final office action is mailed in response to the brief filed 12/20/07.

06/17/08 Third Notice of Appeal filed in response to office action mailed 3/20/08.

06/17/08 Third Appeal Brief filed in response to Notice of Appeal filed 6/17/08.

09/18/08 Non-final action in response to Appeal brief filed 06/17/08 was mailed.

11/18/08 Petition under 37 CFR 1.181 is filed, Appellant petitions the Director to set aside the office action mailed 09/18/08 (hereafter referred to as the "pending office action") and reinstate the Appeal Brief that was pending at the time the pending office action was mailed.

12/18/08 Fourth Notice of Appeal and Fourth Appeal Brief in response to office action mailed 9/18/09.

02/05/08 Non-final office action in response to Appeal Brief filed 12/18/08 is mailed.

RULES & REGULATIONS

MPEP 1207.03 (III) Situations that are not considered as new grounds of rejection:

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

MPEP § 1204.01 Reinstatement of Appeal:

If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal.

MPEP § 1207.04 states in part that:

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant'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.

OPINION

Non-final action mailed 9/18/08 in response to Appeal brief filed 06/17/08 does not constitute new ground of rejection in accordance with MPEP §1207.03 (III) above mentioned, because the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection.

For the above stated reasons, the petition is **GRANTED.**

Thus, the Appeal Brief filed on June 17, 2008 will be entered and the previously paid appeal fees set forth in 37 CFR § 41.20 for filing a Notice of Appeal will be applied to the new appeal on this application.

Non-final office actions mailed 09/18/08 and 02/05/08 in response to Appeal Brief filed 06/17/08 and 12/18/08, respectively, are to be withdrawn by examiner.

The application will be forward to the examiner of record to consider the Appeal Brief and issue a proper Office communication.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAIL

DEC - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Frans W. SIJSTERMANS, et al.
Application No. 09/895,272
Filed: June 29, 2001
For: ROUNDING OPERATIONS IN COMPUTER PROCESSOR

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 26, 2004.

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

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: Philips IP&S-US
1109 McKay Drive, MS SJ 41
San Jose, CA 95131

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Washington, D.C. 20231
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Paper No. 6

Wendi R. Schepler
CARR & FERRELL LLP
2225 East Bayshore Road, Suite 200
Palo Alto, CA 94303

MAIL

MAY 0 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Joseph I. Chamdani
Application No. 09/895,288
Filed: June 29, 2001
For: PACKET LOCKSTEP SYSTEM AND METHOD

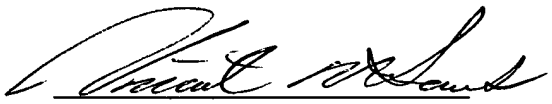
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 25, 2002.

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

The request filed March 25, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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



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

cc: Bart Showalter
BAKER BOTTS LLP
2001 Ross Avenue
Dallas, TX 75201

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RESTON, VA 20190

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OFFICE OF PETITIONS

In re Application of Tanaka :
Application No. 09/895,301 : Decision on Petition
Filing Date: July 2, 2001 :
Attorney Docket No. OKI.249 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on February 1, 2005. A Notice of Abandonment was mailed on June 1, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be informed of the instant decision and will take steps to issue the application as a patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 16 2004

In re Application of	:	
Satake, Eiji	:	NOTICE OF WITHDRAWAL
Serial No. 09/895,331	:	FROM ISSUE
Filed: July 2, 2001	:	UNDER 37 CFR 1.313(b)
For: AQUEOUS DRY LAMINATE ADHESIVE	:	
COMPOSITION FOR ARTIFICIAL LEATHER	:	
AND MANUFACTURING METHOD FOR	:	
ARTIFICIAL LEATHER USING THE SAME	:	

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 Jim Seidleck (571) 272-1078.

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

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

cc: Niomi Farmer
Tamara Greene
Mary McAskill

#3
10-09-02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 9 2002

Paper No. 3

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:
David L. EVANS
Application No. 09/895,342
Filed: June 29, 2001
For: SYSTEM AND METHOD FOR STAGGERED STARTING OF EMBEDDED SYSTEM MODULES IN AN OPTICAL NODE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 26, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-2200

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MAR - 7 2002

OFFICE OF PETITIONS

In re Application of :
Douglas C. Stahl :
Application No. 09/895,381 : LETTER
Filed: July 2, 2001 :
Attorney Docket No. 2703.2 :

This is in response to the paper filed December 26, 2001 under 37 CFR 1.27(c) seeking status as a small entity and this is also a response to the request for refund under 37 CFR 1.26 and 1.28(a).

The Verified Statement Claiming Small Entity Status of December 26, 2001 has been made of record and small entity status has been accorded.

The request for refund is **DISMISSED**.

37 CFR 1.28(a) provides that:

> *Refunds based on later establishment of small entity status.* A refund pursuant to 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if assertion under 1.27(c) and a request for refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment, of the full fee.

The Office Finance records show the only fee that was paid within the three months under 1.27(c) was the surcharge. Therefore, the Office will credited $65.00 to petitioner's Deposit Account No. 06-1205.

The application file is being forwarded to Technology Center AU 1631.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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.
09/895,381	07/02/2001	Douglas C. Stahl	2703.2	1421

5514 7590 09/30/2004

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

EXAMINER	
CLOW, LORI A	

ART UNIT	PAPER NUMBER
1631	

DATE MAILED: 09/30/2004

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

The petition filed under 37 C.F.R. 1.84(a)(2) on December 26, 2001 requesting acceptance of color drawings has been considered.

The petition is GRANTED.

Any inquiry concerning this communication should be directed to Michael P.

Woodward at telephone number 571-272-0722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
9/24/04

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)
6605082	2003-08-12	09895408	2001-07-02	jlr

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2008-06-11
Name	David J. Cushing	Registration Number	28701

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. 6605082
Issue Date: August 12,2003
Application No. 09895408
Filed: July 2,2001
Attorney Docket No. 011350-280

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

This is a decision on the electronic petition, filed June 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 June 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
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

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JUL 10 2006

OFFICE OF PETITIONS

In Application of :
Brown :
Application No.: 09/895,414 : ON PETITION
Filed: July 2, 2001 :
Attorney Docket No.: 132119 :
For: METHOD AND SYSTEM FOR FRAME SYNCHRONOUS FORWARD ERROR CORRECTION

This is a decision on the petition under 37 CFR 1.181, filed June 19, 2006, to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the final Office action, mailed June 27, 2005, which set an extendable three month period for reply. No extension of time or reply being received, the Office contended that this application became abandoned on September 28, 2005. A Notice of Abandonment was mailed on May 17, 2006.

Petitioner alleges that the June 27, 2005 final Office action was not received.

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.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has proven non-receipt. Practitioner has attested to a fruitless search of the file jacket and docket records. Practitioner has referenced a docket record where the non-received Office communication would have been entered had it been received.

The petition is granted. The holding of abandonment is withdrawn and the May 17, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application will be returned to Technology Center AU 2133 for the re-mailing of the final Office action with a new period for response.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

April 15, 2003

George C. Pappas
Qualcomm Incorporated
Att: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

In re application of:
Don A. Andrews DECISION ON PETITION
Serial No.: 09/895,424
Filed: June 29, 2001
For: IMPLEMENTING AND COORDINATING
CONFIGURATION OF PROTOCOLS

This is a decision on the petitions received on January 29, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed August 23, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 24, 2001. A notice of abandonment was mailed December 17, 2002.

On January 29, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice to File Missing Parts on October 30, 2001 with a certificate of mailing. The drawing was submitted on January 16, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing parts mailed on October 30, 2001.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2152.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of
Don A. Andrews, et al.
Application No. 09/895,424
Filed: June 29, 2001
Attorney Docket No. 010134

ON PETITION

This is a decision in response to the petition, filed March 2, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 30, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on January 2, 2007. In response, on March 2, 2007, the present petition was filed.

It is noted that petitioner submitted a fee of $500 for consideration of this petition. Since the requisite petition fee is $1,500, the $1,000 balance of the petition fee is being charged to counsel's deposit account as authorized. Further, extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,020 extension fees submitted with this petition are being credited to counsel's deposit account.

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

This application is being referred to Technology Center AU 2154 for appropriate action by the Examiner in the normal course of business on the reply received March 2, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attorney Docket No. 010134
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	)	**Date of Notice of Allowance:** **n/a**
Don A. Andrus, et al.	)	
Serial No.: 09/895,424	)	**Batch No.:** **n/a**
Filed: 6/29/01	)	**Examiner:** **Wen Tai Lin**
For: IMPLEMENTING AND COORDINATING CONFIGURATION OF PROTOCOLS	)	**Group Art Unit:** **2154**

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

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

Dear Sir:

1. This application became abandoned on 10/1/06

2. This petition is filed:

☒ within one year of the date of abandonment.
☐ within three months of the date of the first decision on a petition to revive under 37 CFR 1.137(a) which was filed within one year of the date of abandonment.
  ☐ the three month period has been extended up to (Type Date).
  ☐ enclosed is a petition and fee for extension of the three month period to (Type Date).

Adjustment date: 07/31/2007 CKHLOK
03/05/2007 INTEFSW 00000576 170026 09895424
01 FC:1452 500.00 CR
02 FC:1253 1020.00 CR

07/31/2007 CKHLOK 00000019 170026 09895424
01 FC:1453 1500.00 DA

FILED ELECTRONICALLY

3/2/07
(Date of Deposit)

Darla Kasmedo
(Name of the Person Making the Deposit)

/Darla Kasmedo/
(Signature)

3. This application became abandoned unintentional.

4. Proposed response:

☐ has been filed.
☒ is attached.
☐ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

5. Fee (37 CFR 1.17(m))

Application status is:

☐ small entity – fee $750.00.
  ☐ Verified Statement attached.
  ☐ Verified Statement filed.
☒ other than small entity – fee $1,500.00.

6. Payment of fee:

☒ Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated in the amount of $1500.00.
The Commissioner is hereby authorized to charge payment of any additional fees which may be required, or credit any overpayment, to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed.
☒ The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

The undersigned declares further that all statements made herein are of his or her own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dated 3/2/07

By: /George C. Pappas/

George C. Pappas, No. 35,065
858-651-1306

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Facsimile: (858) 658-2502

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 07/30/07	2 Serial/Patent # 09/895,424

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time			$ 1,020.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1,020.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

extension filed after extendable period

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Sherry D. Brinkley TITLE: Petitions Examiner

SIGNATURE: Sherry D. Brinkley PHONE: 2-3204

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhuk DATE: 7/31/07

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)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Puneet Kukkal :
Application No. 09/895,432 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 42390P11150

This is a decision on the petition, filed May 5, 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 January 14, 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]

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

This matter is being referred to Technology Center AU 2143 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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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Fenwick & West LLP
Silicon Valley Center
801 California Center
Mountain View, CA 94041

MAILED

SEP 0 3 2004

Technology Center 2100

In re Application of:
Kornelius A. VISSERS, et al.
Application No. 09/895,473
Filed: June 29, 2001
For: COMBINING OPERATIONS IN A VLIW PROCESSOR

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 26, 2004.

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

The request is **GRANTED.**

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Philips IP& S-US
1109 McKay Drive
MS SJ 41
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/12/2010

Applicant	: Binh T. Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 6585598	: RECALCULATION of PATENT
Issue Date	: 07/01/2003	: TERM ADJUSTMENT IN VIEW
Application No	: 09/895,475	: OF WYETH
Filed	: 06/28/2001	:
		:

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 3

Kevin J. Zilka
Silicon Valley Intellectual Property Group
P.O. Box 721120
San Jose, California 95172-1120

MAILED

SEP 20 2002

Technology Center 2100

In re Application of: Robert R. Grupe)
Application No. 09/895,499)
Filed: June 29, 2001) **DECISION ON PETITION FOR**
For: INTELLIGENT NETWORK) **ACCELERATED EXAMINATION**
SCANNING SYSTEM AND) **UNDER M.P.E.P. §708.02(VIII)**
METHOD)

This is a decision on the petition, filed June 19, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 07/23/2010

Applicant	: Richard A. Faust	: DECISION ON REQUEST FOR
Patent Number	: 7655555	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/895,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1078** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7

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

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JUN 18 2003

OFFICE OF PETITIONS

In re Application of :
Yiu, et al. :
Application No. 09/895,521 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 3399P049 :

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 15, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on June 29, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On December 26, 2001, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on January 21, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[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)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of September 25, 2003 accompanies this decision.

The application file is being forwarded to Technology Center 2600 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/06

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/895526 Patent No 69878119

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Kakali Chaki

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2193
Art Unit

#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
WASHINGTON, DC 20231
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JUN 19 2002

MAILED

JUN 19 2002

OFFICE OF THE DIRECTOR
TC 3600

IRELL & MANELLA LLP
1800 AVENUE OF THE STARTS
SUITE 900
LOS ANGELES, CA 90067

In re Application of :
Dennis H. Weissert :
Serial No. 09/895,568 : DECISION ON REQUEST TO
Filed June 29, 2001 : WITHDRAW AS ATTORNEY
FOR: COMPLIANT FOIL FLUID FILM :
RADIAL BEARING :

This is a decision on the Request For Withdrawal As Attorney Or Agent filed May 28, 2002

The request for withdrawal as attorney is APPROVED.

The withdrawing attorney asked that the correspondence address be changed to a third party who at this point has no vested interest or relationship to the application. Therefore, the correspondence address will be changed to the default address, that of the inventor.

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

SM/dw: 06/18/02

cc: Dennis H. Weissert
10500 Sherman Grove #102
Sunland, CA 91040

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. 15

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

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Dimitri Papamoschou :
Application No. 09/895,569 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 3859P002DR :

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2004 and resubmitted on June 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 26, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted on January 29, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 31, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 27, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 26 ,2003 is accepted as having been unintentionally delay.

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

The application file is being forwarded to Technology Center AU 3746.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 6

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

AUG 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

RECEIVED
AUG 0 8 2003
HP LEGAL

In re Application of :
Naik et al. :
Application No. 09/895,577 :
Filed: June 28, 2001 :
For: **SYSTEM AND METHOD FOR CONTROLLING NETWORK TRAFFIC FLOW IN A MULTI-PROCESSOR NETWORK** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 16, 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/agents are granted the request for withdraw including those of Customer Number 25,696.

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: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527-2400
ATTN: BILL STREETER

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & NEAVE
1251 Avenue of the Americas
50th Floor
New York, NY 10020-1105

MAILED

SEP 0 3 2004

Technology Center 2100

In re Application of:
Akli ADJAOUTE
Application No. 09/895,603
Filed: June 29, 2001
For: SYSTEMS AND METHOD FOR FILTERING ELECTRONIC CONTENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 11, 2004.

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

The request is **GRANTED.**

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Akli Adjaoute
Chief Executive Officer
Brighterion, Inc.
353 Kearny Street, 5th Floor
San Francisco, CA 94108

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAY 18 2005

OFFICE OF PETITIONS

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of :
Daniel Stefek et al :
Application No. 09/895,605 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. BARR0005 :

This is a decision on the petition, filed May 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2121 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

EDWARD N. BACHAND
FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

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DEC 17 2001

OFFICE OF PETITIONS

In re Application of	:	
Sharkey et al.	:	
Application No. 09/895,609	:	ON PETITION
Filed: 29 June, 2001	:	
For: Surgical Instrument Having	:	
Distal Face with First and Second	:	
Electrodes	:	

This is a decision on the petition filed on 10 October, 2001, requesting that the above-identified application be accorded a filing date of 29 June, 2001, with Pages 2 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 29 June, 2001. However, on 17 August, 2001, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date but that Page 2 of the specification appeared to have been omitted.

In response, on 10 October, 2001, petitioners filed, *inter alia*, page 2 of the specification, the present petition, and a petition fee. Petitioners argue that Page 2 was filed with the other application papers on 29 June, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 10 October, 2001. The postcard receipt shows an Office date stamp of 29 June, 2001, and acknowledges receipt of, *inter alia*, 22 pages of specification, five (5) pages of claims, and one (1) page of abstract. Petitioners request that the application, including Page 2 of the specification, be accorded a filing date of 29 June, 2001.

A review of the record reveals that no Page 2 of the specification has been located among the application papers deposited on 29 June, 2001. However, the evidence is convincing that the application papers deposited on 29 June, 2001, included Page 2 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 2 of the specification, is entitled to a filing date of 29 June, 2001.

The "Notice" mailed on 17 August, 2001, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, No. 06-1300.

The application will be processed and examined using the copy of Page 2 supplied on 10 October, 2001. The copies of the other application papers supplied on 10 October, 2001, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 29 June, 2001, using the application papers filed on 29 June, 2001, and the copy of Page 2 of the specification supplied on 10 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

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. 6

MAIL

OCT - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Dennis M. Carleton
BUCHANAN INGERSOLL
One Oxford Centre, 20th Floor
Pittsburgh, PA 15219

In re Application of:
Lalit Pant, et al.
Application No. 09/895,619
Filed: June 29, 2001
For: ARCHITECTURE FOR INTELLIGENT AGENTS AND A DISTRIBUTED PLATFORM THEREFOR

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 8, 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 September 8, 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: Lalit Pant
REDSTONE SYSTEMS, INC.
2022 Old Ramsey Road
Monroeville, Pennsylvania 15146

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

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

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NOV 1 4 2002

OFFICE OF PETITIONS

In re Application of:
Kanayama
Application No. 09/895,622
Filed: June 29, 2001
Attorney Docket No. 96790.P369
For: INK FOUNTAIN APPARATUS FOR ROTARY PRINTING PRESS

: DECISION DISMISSING PETITION

This is a decision on the petition, filed September 10, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed July 18, 2002.

The application was deposited on June 29, 2001. On July 18 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 22 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 22 be accorded a filing date of June 29, 2001 on the basis that the entire specification, including allegedly missing page 22, was received in the Patent and Trademark Office (PTO) on June 29, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 29, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 24 pages with cover and abstract.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately or properly itemized on the postcard. MPEP 503. The postcard states that the filing consists of 24 pages with cover and abstract. A review of the application file reveals that 1 cover sheet and 22 pages are present. The total number of pages for these two items = 23.

However, page 22 of the specification and the abstract is missing. If page 22 and the abstract were added to the total number of pages, the total would be 25. Therefore, the postcard was not properly itemized (24 vs. 25) and cannot be used to prove page 22 was present. Either page 22 or the abstract was omitted but there is no way to prove which one was omitted.

Therefore, the petition is **DISMISSED**.

Fortunately, page 22 appears to be a duplicate of page 23, which is found in the application file. Therefore, petitioner should file an amendment renumbering the pages of the specification to make current page 23 into new page 22.

The petition fee of $130.00 is being charged to deposit account no. 02-2666.

The application is being returned to the Office of Initial Patent Examination for further processing, using the abstract filed on September 4, 2001. Thereafter, the application will be forwarded to Technology Center 2800 to await the amendment renumbering the pages of the specification.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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MAY 2 3 2006

OFFICE OF PETITIONS

In re Application of :
Erin M. Defosse et al :
Application No. 09/895,647 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 064814.0193 :

This is a decision on the petition, filed May 19, 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 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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Paper No. 6

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

AUG 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of : Naik et al.
Application No. 09/895,577
Filed: June 28, 2001
For: **SYSTEM AND METHOD FOR CONTROLLING NETWORK TRAFFIC FLOW IN A MULTI-PROCESSOR NETWORK**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 16, 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/agents are granted the request for withdraw including those of Customer Number 25,696.

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: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527-2400
ATTN: BILL STREETER

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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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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APR 27 2007

OFFICE OF PETITIONS

In re Application of
Freeman et al.
Application No. 09/895,735
Filed: 06-29-2001
Attorney Docket No. AB-1583-1C US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed February 16, 2007, requesting that the Form PTOL-85, Issue Fee Part B – Fee(s) Transmittal be accorded a filing date of December 19, 2006, rather than the presently accorded filing date of December 20, 2006. Additionally, this is a decision on the petition under 37 CFR 1.181, filed February 16, 2007, to withdraw the holding of abandonment.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on September 19, 2006, which set a three (3) month statutory period for reply. In the apparent absence of a timely filed reply, the application became abandoned on December 20, 2006. A Notice of Abandonment was mailed on January 17, 2007.

Petitioners request that the Office withdraw the holding of abandonment in the present application because they timely replied to the Notice of Allowance on December 19, 2006. Specifically, petitioners assert that they deposited the Form PTOL-85, Issue Fee Part B – Fee(s) Transmittal ("PTOL-85B") in Express Mail service on December 19, 2006.

Section 711.03(c)(I)(B) of the Manual for Patent Examining Procedure states:

> 37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

In support of the assertion, petitioners provide the Office with a copy of Express Mail label No. EV947395875US. The "date-in" indicated on the Express Mail label is December 19, 2006. The same Express Mail label number was placed on the original PTOL-85B located in the official file.

Petitioners have shown that they deposited the PTOL-85B in Express Mail service on December 19, 2006. Accordingly, the petition under 37 CFR 1.10(c) is **granted**.

As to the request to withdraw the holding of abandonment, the Office notes that applicants were required to pay the issue and publication fees on or before December 19, 2006, to avoid abandonment. Petitioners have established that they deposited the PTOL-85B in Express Mail service on December 19, 2006, in compliance with 37 CFR 1.10(c). Additionally, the PTOL-85B contained an authorization to charge any necessary fees to the Deposit Account. Thus, applicants submitted a timely and proper reply to the Notice of Allowance on December 19, 2006. See MPEP 711.03(c)(I)(B). Accordingly, the petition to withdraw the holding of abandonment is **granted**. The application will be restored to pending status in view of the fact that a response was timely submitted on December 19, 2006.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

BRETT A. CARLSON
SNELL & WILMER L.L.P.
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
PHOENIX, ARIZONA 85004-2202

MAIL

OCT 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Eddie H. Williams
Application No. 09/895,741
Filed: June 29, 2001
For: PERSONALIZED EVENT BOOK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 16, 2002.

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

The request is **GRANTED.**

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

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

cc: Mr. Eddie Williams
Cyberradio.com
13771 Fountain Hills Boulevard
Suite 114-228
Phoenix, Arizona 85268

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.
09/895,741	06/29/2001	Eddie H. Williams	36571.0300	1044

7590 03/17/2006

Mr. Eddie Williams
Cyberradio.com
13771 Fountain Hills Boulevard
Suite 114-228
Fountain Hills, AZ 85268

EXAMINER	
RAHIMI, IRAJ A	

ART UNIT	PAPER NUMBER
2622	

DATE MAILED: 03/17/2006

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

This is a corrected decision on the petition mailed on October 10, 2002 to withdraw as attorney.

The cc: address change for future correspondence on the decision has been corrected.

Future correspondence will be sent to the address above.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 3

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MAIL

OCT 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Eddie H. Williams
Application No. 09/895,741
Filed: June 29, 2001
For: PERSONALIZED EVENT BOOK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 16, 2002.

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

The request is **GRANTED.**

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
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cc: Mr. Eddie Williams
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corrected

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alan S. Hodes
BEYER WEAVER & THOMAS, L.L.P.
P.O. Box 70250
Oakland, CA 94612-0250

MAILED

MAY 23 2006

Technology Center 2100

In re Application of:	)	
WALLMAN et al.	)	
Application No. 09/895,772	)	**DECISION ON PETITION TO**
Filed: June 28, 2001	)	**WITHDRAW HOLDING OF**
For: INITIALIZATION OF JAVA CLASSES	)	**ABANDONMENT UNDER 37 CFR**
IN JAVA VIRTUAL MACHINE	)	**§1.181**
ENVIRONMENTS	)	

This is a decision on the petitions, filed 11 April 2006, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. A Notice of Abandonment was not yet mailed.

In support of the petition, petitioner asserts that the Notice of Allowability and the Notice of Allowance and Issue Fee mailed 22 November 2005 were not received.

The relevant portion of MPEP § 711.03(c) states:

> 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner's submission **failed** to meet the criteria of set out in MPEP § 711.03(c) for establishing failure to receive an Office action.

However, a review of the image application, the undersigned found the Notices of Allowability and Allowance and Issue Fee Due mailed 22 November 2005 were returned to the United States

Patent and Trademark Office (the Office) and the Office did not remail the Notice of Allowability and the Notice of Allowance and Issue Fee Due. The undersigned hereby waives the requirements set out in MPEP § 711.03(c) for establishing failure to receive an Office action.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The issue fee was paid on 11 April 2006. Thus, the application is being forwarded to the Office of Patent Publication.

Vincent N. Trans
Special Programs 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. 23

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

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APR 01 2005

OFFICE OF PETITIONS

In re Application of :
Gurer, et al. :
Application No. 09/895,786 : ON PETITION
Filed: June 30, 2001 :
Attorney Docket No. 8003-387 :

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 was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 13, 2003. Accordingly, this application became abandoned on June 14, 2003. A Notice of Abandonment was mailed on November 24, 2003.

The file is being forwarded to Technology Center 2800 for review of the amendment, filed March 15, 2004, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No. 7

MAILED

OCT 31 2003

Technology Center 2100

Marsh Fischmann & Breyfogle LLP
3151 South Virginia Way
Suite 411
Aurora, Colorado 80014

In re Application of: Larry Brown et al.	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI): COUNTERING TERRORISM**
Application No. 09/895,801	)	
Filed: June 29, 2001	)	
For: AUTOMATIC INFORMATION SANITIZER	)	

This is a decision on the petition to make special filed September 12, 2003 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to a method and system for sanitizing messages which can be used for controlling access to sensitive information by automating the process of screening data for the clearance levels of potential recipients. Note, that there is no

mention of terrorist activity in the disclosure. Computer security systems do 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 activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State". Furthermore, security compartmentalization does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

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

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

SEP 26 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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THOMAS J. PERKOWSKI, ESQ.
THOMAS J. PERKOWSKI, ESQ. P.C.
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD, CT 06902

In re Application of
ROBERT CLARK et al.
Application No.: 09/895,808
Filing Date: 13 March 2001
Attorney Docket No.: 108-022USANA0
For: ELECTRONICALLY-CONTROLLED MECHANICALLY-DAMPED OFF-RESISTANT LIGHT BEAM SCANNING MECHANISM AND CODE SYMBOL READERS EMPLOYING THE SAME

DECISION ON PETITION

This communication is in response to Petition submitted to the United States Patent and Trademark Office (USPTO) on 22 May 2001.

A review of USPTO records indicates that on 13 March 2001, applicant filed a continuation application of U.S. application no. 08/931,691.

On 22 May 2001, applicant filed the instant communication requesting that the USPTO accord a serial number to the present application and that an Official Filing Receipt be issued.

It is noted that a Notice to File Missing Parts Of Nonprovisional Application was mailed to applicant on 07 August 2001 indicating the assigned serial number. According, the petition is **DISMISSED** as moot.

Applicant is advised that the papers filed on 13 March 2001 have been accorded U.S. serial number 09/895,808. The application is being forwarded to OPIE for further processing.

Leonard E. Smith
Legal Examiner
PCT Legal Office

CMK/LES:cmk

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-02

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OFFICE OF PETITIONS

In re Application of Chapman :
Application No. 09/895,809 : Decision on Petition
Filing Date: June 27, 2001 :
Attorney Docket No. CISCP200 :

This is a decision on the petition under 37 CFR 1.181, filed January 9, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on May 26, 2006. The Office action set a shortened statutory period for reply of three (3) months.

A reply to the Office action was not matched with the file. As a result, a Notice of Abandonment was mailed December 27, 2006.

Petitioner contends a reply was timely filed on Monday, August 28, 2006.

A review of the file indicates, subsequent to the mailing of the Notice of Abandonment, the August 28, 2006 reply was matched with the file. Therefore, the application is clearly not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2616 will be informed of the instant decision and the examiner will consider the merits of the August 28, 2006 reply 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
www.uspto.gov

Paper No. 7

MICHALIK & WYLIE PLLC
Suite 103
14645 Bel-Red Road
Bellevue WA 98007

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JUL 1 0 2002

OFFICE OF PETITIONS

In re Application of
Rod Gamache, Michael T. Massa, Sunita Shrivastava, Gor V. Nishanov, David B. Lomet, Philip A. Bernstein, and Rohit Jain

Application No. 09/895,810
Filed: July 2, 2001
Attorney Docket No. 1432
Title: METHOD AND SYSTEM FOR CONSISTENT CLUSTER OPERATIONAL DATA IN A SERVER CLUSTER USING A QUORUM OF REPLICAS

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 22, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on July 2, 2001 without an oath or declaration, and naming Rod Gamache, Michael T. Massa, Sunita Shrivastava, Gor V. Nishanov, David B. Lomet, Philip A. Bernstein, and Rohit Jain as joint inventors. On August 20, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring $710.00 for the filing fee, $584 in additional claim fees, an executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

In reply, applicant filed the instant petition (and fee)[2]. Accompanying the petition was a statement by the petitioner which sets forth the pertinent facts, a declaration executed by each of the inventors save inventor Jain, a statement of facts jointly executed by the attorney of record and one Sherie L. Dodson[3], copies of two express mail envelopes sent to the non-signing inventor, and copies of internet search results.

The petition establishes that the non-signing inventor cannot be located.

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

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

2 The petitioner also included a petition for a five month extension of time.
3 The statement of facts does not reveal the relationship of the declarant to the non-signing inventor. However, it is noted that the attorney of record has stated on the record that the declarant has firsthand knowledge of the facts recited therein.

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

JUN 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of:
Jules Jakob VOS
Application No. 09/895,813
Filed: June 29, 2001
For: DISTRIBUTED DECISION PROCESSING SYSTEM

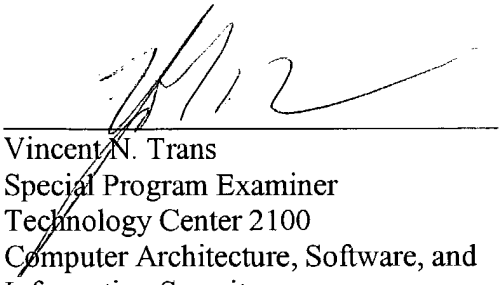
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 10, 2004.

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

The request is **GRANTED.**

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



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: M.H. de Vries
Van Doorne Lawyers in Business
Jachthavenweg 121
P.O. Box 75265
1070 AG Amsterdam
The Netherlands

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MAY 27 2005

ROBYN ADMAS
ZYMOGENETICS, INC
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102

In re Application of	:
Paul O. Sheppard et al	:
Serial No.: 09/895,834	: PETITION DECISION
Filed: June 29, 2001	:
Attorney Docket No.: 01-18	:

This is in response to the petition under 37 CFR 1.181, filed February 7, 2005, for withdrawal of abandonment of the above identified application based on a timely reply.

A review of the file history shows that the examiner mailed a Notice to File Corrected Drawings to applicants on October 7, 2004. Upon apparent failure to receive the formal drawings the Office of Publications mailed a Notice of Abandonment to applicants on January 20, 2005. Applicants state that formal drawings were filed October 18, 2005. The drawings have now been located in the scanned file. 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 will be forwarded to the Publications Division for printing as a patent.

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.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAY - 6 2005

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Catherine Guenther
Serial No.: 09/895,840
Filed: June 28, 2001
Attorney Docket No.: R-409

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on March 4, 2005, requesting withdrawal of the holding of abandonment of the above-identified application based on non –receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a first Office action, setting a three-month statutory time period for reply, to applicants on April 20, 2004. On December 28, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of April 20, 2004 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed December 28, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-08

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No. 09/895843 Patent No.: 6841613

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

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

Gina Young

Certificates of Correction Branch

703-308-9390 ext. 17

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: _____

James O. Wilson

SPE

1624

Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE.
SUITE 6300
SEATTLE, WA 98104-7092

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JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Chauhan et al.	:	
Application No. 09/895,850	:	DECISION GRANTING PETITION
Filed: June 29, 2001	:	
Attorney Docket No. 980041.402	:	

This is a decision on the petition under 37 CFR 1.181, submitted by facsimile transmission on June 6, 2003, to correct the benefit claim in the above-identified application pursuant to 35 USC 1.119(e).

The first line of the specification, as filed, indicated: "This application claims benefit of U.S. Provisional Patent Application No. 60/215,590 filed on June 30, 2000, which is incorporated herein by reference in its entirety."

The Office records have been corrected to reflect the benefit claim as indicated above. Enclosed is a copy of the correct filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON & SHERIDAN, LLP
SRI INTERNATIONAL
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Patent of Myers et al.	:	
Patent No. 7,031,553	:	
Issue Date: April 18, 2006	:	Letter
Application No. 09/895,868	:	
Filing Date: June 29, 2001	:	
Attorney Docket No. SRI/4483-2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed April 6, 2006.

The deficiency payment of $700 is hereby accepted.

The change of status to large entity has been entered and made of record.

The file is being forwarded to Files Repository.

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
www.uspto.gov

Paper No. 6

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

COPY MAILED

JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Fang et al. : ON PETITION
Application No. 09/895,871 : AND NOTICE OF ABANDONMENT
Filed: June 29, 2001 :
Attorney Docket No. 13615.21USU1 :

This is a decision on the petition filed January 4, 2002, requesting that above-identified application be accorded a filing date of June 29, 2001, with page 50 of the specification as part of the original disclosure.

On June 29, 2001, applicants filed the above-identified application. On September 19, 2001, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of June 29, 2001, and advising applicants that the statutory basic filing fee and additional claim fees were missing, and that the declaration was unsigned. The Notice informed applicants that in order to avoid abandonment, applicants must submit the statutory filing fee, additional claim fees, an executed oath/declaration, and a $130.00 surcharge within two (2) months of the date of the Notice. Extensions of time under 37 CFR 1.136(a) were available. Additionally, the Notice advised applicants that page 50 of the specification appeared to have been omitted from the application.

In response, on January 4, 2002, applicants filed the present petition, a copy of page 50 of the specification, and paid the filing fee, additional claim fees, the surcharge, and the petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of 97 pages of specification, 76 claims and 1 page of abstract in the United States Patent and Trademark Office (Office) on June 29, 2001. Applicants requested that the application, including page 50 of the specification, be accorded a filing date of June 29, 2001, and the petition fee be refunded.

Upon review of the record, page 50 of the specification, deposited on June 29, 2001, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 29, 2001, included page 50 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including page 50 of the specification, was complete on filing and entitled to a filing date of June 29, 2001.

Accordingly, the petition is granted.

The Notice of Missing Parts mailed on September 19, 2001, incorrectly indicated that page 50 of the specification appeared to be omitted. The Notice is hereby vacated in part with regard to the notification of the omission of page 50 of the specification. Accordingly, the petition fee is unnecessary and will be credited to counsel's Deposit Account No. 13-2725.

Although applicants' transmittal sheet indicates applicants' intention to submit an executed oath/declaration, no such document has been located in the file. Accordingly, the application is held abandoned as of November 20, 2001, for failure to properly and timely reply to the Notice of Missing Parts of September 19, 2001.

To revive the above-identified application, applicants must file a petition to revive under 37 CFR 1.137(a) or (b), the requisite petition fee, and an executed oath/declaration in response to the Notice of Missing Parts.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 29, 2001, using pages 1-49 and 52-97 of specification filed on June 29, 2001, and page 50 of the specification submitted on January 24, 2002. The Office of Initial Patent Examination is directed to mail a corrected filing receipt as requested by applicants, as well as issue a Notice of Abandonment.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries should be directed to Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory 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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WASHINGTON, D.C. 20231
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Paper No. 12

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

COPY MAILED

OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Lawrence Y. Fang et al :
Application No. 09/895,871 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 01-1693-F :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 19, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 20, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

McGLEW AND TUTTLE, P.C.
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

SEP 13 2004

In re Application of
Hans-Joachim Fuchs et al.
Application No. 09/895,917
Filed: June 29, 2001
Attorney Docket No. 70231

DECISION ON PETITION

This is a decision on the petition filed April 14, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A restriction requirement was mailed September 25, 2003, without setting a shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed April 6, 2004.

Petitioner asserts that a response was timely filed by facsimile transmission on January 26, 2004 together with an Extension of Time for three months. To support the assertion, petitioner submitted 1) a copy of a response entitled "Response to Requirement Under 35 USC §121" dated January 26, 2004, 2) a copy of the Certificate of Transmission under 37 C.F.R. § 1.8(a) dated January 26, 2004, 3) a copy of the Extension of Time for three months dated January 26, 2004 and 4) a copy of the sending unit's report confirming successful transmission of four pages.

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

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware

> that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition, meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Response to Requirement Under 35 USC §121 and the Extension of Time for three months. From there, it will be returned to the examiner for further prosecution.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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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MAY 27 2004

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

In re Application of	:
Saris et al.	:
Serial No.: 09/895943	:WITHDRAWAL OF ABANDONMENT
Filed: June 28, 2001	:
Attorney Docket No.: 00,514-C	:

This is in response to applicant's petition under 37 CFR 1.181(a), filed March 22, 2004, requesting withdrawal of the holding of abandonment.

BACKGROUND

A review of the file records show that the Office mailed an Office Action on February 04, 2004, setting a shortened statutory period of 1 month for reply. On March 22, 2004, applicants filed a Petition to request Withdrawal of Holding of Abandonment.

DISCUSSION

The file record and Petition have been considered carefully. The Petition states that on March 01, 2004, Applicants submitted a Notice of Appeal, and a Petition for Extension of Time (3 months), in duplicate, authorizing the Commissioner to charge the applicable fees to Deposit Number 13-2490, and a Return Receipt Postcard. Pursuant to 37 C.F.R. 1.8, these documents were mailed, with sufficient postage as first class mail in an envelope addressed by belief of Applicant, to: Mail stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. Applicants enclosed a copy of these documents.

On March 18, 2004, the submission referred to above was returned to Applicants' representative marked "Return to Sender; Insufficient Address; Unable to Forward; Return to Sender." Applicants' enclosed the mailing envelope used for submission of the above-mentioned documents and as labelled by the United States Post Office. Applicants' representative reviewed the address on the mailing label of the envelope containing the above-mentioned documents, and believed the submission had been properly addressed.

In the afternoon of March 18, 2004, Applicants' representative telephoned Examiner Robert Landsman to inform him of the failure of the response to reach the Office, and to inquire as to the procedure necessary to ensure that the application remain active. Examiner Landsman referred Applicants' representative to Mr. Bill Nixon (Dixon). Applicants' representative then telephoned Mr. Nixon (Dixon), who helpfully advised Applicants' representative to resubmit the original documents along with a Petition to Withdraw Holding of Abandonment.

While preparing this Petition, Applicants' representative realized that there was an error in the city listed in the mailing address of the original submission; while all other address information, including the zip code, was correct, the city was incorrectly listed as "Arlington," rather than "Alexandria." Applicants' representative then telephoned Mr. Nixon (Dixon) to inquire as to whether an alternate procedure would be required to ensure that the application remain active. Applicants' representative reached Mr. Nixon's (Dixon) voice mail and left a message.

On the morning of March 19, Applicants' representative received a voice mail message from Mr. Nixon (Dixon) indicating that Applicants' representative should proceed as previously instructed. Mr. Nixon (Dixon) voice message further indicated that when there is a discrepancy between city and zip code, the U.S. Postal Service policy is to delivery the item based on the zip code, and that because in the instant situation the zip code was correct, the document should have accordingly been delivered to the USPTO.

Applicants' respectfully request withdrawal of the holding of abandonment, and that the documents enclosed, including the Notice of Appeal, be entered.

DECISION

In view of Applicants' timely response, the Petition has been **GRANTED**. The Holding of Abandonment has been withdrawn.

The application will be forwarded to the Examiner for consideration of the response filed March 01, 2004.

Should there be any questions with regard to this letter please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (571) 272-0512 or by facsimile transmission at (703) 308-7230.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

fr

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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RITTER, LANG & KAPLAN LLP
12930 SARATOGA AVE.,
SUITE D1
SARATOGA CA 95070

COPY MAILED

NOV 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Trevor G. Frank et al :
Application No. 09/895,945 :
Filed: June 29, 2001 :
Attorney Docket No. 1012-076(99-134) :

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 undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

MAILED

AUG 12 2002

Technology Center 2100

Sawyer Law Group
P. O. Box 51418
Palo Alto, California 94303

In re Application of: Eric Anderson)
Application No. 09/895,946)
Filed: June 29, 2001)
For: METHOD AND SYSTEM FOR ACCELERATING A USER INTERFACE OF AN IMAGE CAPTURE UNIT DURING PLAY MODE)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed June 29, 2001, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(I) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PENNIE & EDMONDS LLP
3300 HILLVIEW AVENUE
PALO ALTO, CA 94304

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JAN 0 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Hariguchi et al.	:	
Application No. 09/895,972	:	DECISION DISMISSING
Filed: 29 June, 2001	:	PETITION
Attorney's Docket No. 9869-0005-999	:	

This is a decision on the petition filed on 11 October, 2001, to accord the above-identified application a filing date of 29 June, 2001, with Figure 27 described in the specification as a part of the original disclosure.

The instant application was filed on 29 June, 2001. On 22 August, 2001, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 29 June, 2001, but that Figure 27 described in the specification appeared to have been omitted. The Notice set a two month period for reply from the 22 August, 2001, mailing date.

In response to the Notice, the present petition was filed on 11 October, 2001, accompanied by one (1) sheet of drawings containing Figure 27. Petitioners assert that the one (1) sheet of drawings containing Figure 27 is entitled to a filing date of 29 June, 2001, because it is identical to Figure 27 in provisional Application No. 60/215,653, to which the present application claims priority.

The evidence is not persuasive. The record does not show that the sheet of drawings was received at the USPTO on 29 June, 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. However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 29 June, 2001, showing that a sheet of drawings containing Figure 27 was received in the USPTO on 29 June, 2001, the application cannot be accorded a filing date of 29 June, 2001, with Figure 27 as a part of the original disclosure.

Petitioners argue that Figure 27 submitted on 11 October, 2001, is substantially similar to Figures 27 of the drawings filed with prior provisional Application No. 60/215,653, filed on 30 June, 2000, the priority case for the instant application; however, the mere fact that the figures in the priority application may resemble the figures submitted on 11 October, 2001, is insufficient to accord a 29 June, 2001, filing date for the figures submitted 11 October, 2001. The mere reference to another application is not an incorporation of anything therein into the application containing such reference.[2]

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

This application has already been processed without the drawing filed on 22 August, 2001. The one (1) sheet of drawings containing Figure 27 filed on 11 October, 2001, will not be used for examination purposes, but will be retained in the application file.

Of course, petitioner may submit Figure 27 in the form of a preliminary amendment. If Figure 27 is submitted as a

---

[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] In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

preliminary amendment, it will be reviewed by the examiner for new matter.

As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, a petition fee of $130.00 is due and will be charged to counsel's deposit account, No. 16-1150.

Any request for reconsideration of this petition must be submitted within **two months** of the mailing date of this decision in order to be considered timely. See 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) are not permissible.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 29 June, 2001, using the application papers filed on that date. The copy of Figure 27 supplied with the present petition will not be processed or examined, but will be retained in the application file.

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Before the Examiner:
Calderaro, et al.	:	
Serial No.: 09/895,977	:	Group Art Unit: 2163
Filed: June 29, 2001	:	Intellectual Property
Title: System and Method for	:	Law Department
Organizational Risk Based on	:	International Business
Personnel Planning Factors	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758

PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.48(a)

Assistant Commissioner of Patents
Washington, D. C. 20231

RECEIVED
JAN 1 5 2003
Technology Center 2100

Received
MAY 2 2 2002
Technology Center 2100

Dear Sir:

Applicants respectfully petition to correct inventorship of the above-identified application for patent by adding the following previously unnamed inventors of this application:

Catherine Marshall Baritell
Ann Haigler Spivey

Attached is a Statement Under 37 CFR 1.48(a)(2) from Catherine Marshall Baritell.

Attached is a Statement Under 37 CFR 1.48(a)(2) from Ann Haigler Spivey.

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GROUP 3600

Attached is the written Consent of the Assignee.

Attached is a Certificate Under 37 C.F.R. 3.73(b).

Attached is a Declaration by each of the actual inventors.

In view of the statements from the newly added inventors and the declaration by each of the actual inventors, it is submitted that Catherine Marshall Baritell and Ann Haigler Spivey were not named as inventors through error without any deceptive intention on the part of the actual inventors. Thus, Applicants respectfully request that this petition to add inventors be granted.

The Commissioner is hereby authorized to charge payment of the $130 fee as set forth in 37 CFR 1.17(i) to Deposit Account 09-0447. A duplicate copy of this sheet is enclosed.

BY Leslie A. Van Leeuwen

Leslie A. Van Leeuwen
Attorney for Applicant(s)
Registration No. 42,196
(512) 823-6746

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Before the Examiner:
Calderaro, et al.	:	
Serial No.: 09/895,977	:	Group Art Unit: 2163
Filed: June 29, 2001	:	Intellectual Property
Title: System and Method for	:	Law Department
Organizational Risk Based on	:	International Business
Personnel Planning Factors	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758

STATEMENT UNDER 37 C.F.R. SECTION 1.48(a)(2)
by Catherine Marshall Baritell

Assistant Commissioner of Patents
Washington, D. C. 20231

RECEIVED
JAN 15 2003
Technology Center 2100

Received
MAY 22 2002
Technology Center 2100

Dear Sir:

I, Catherine Marshall Baritell, state that I am a joint inventor of the above-identified application for patent.

The subject application was inadvertently filed omitting my name as a joint inventor through error and without deceptive intention on my part.

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.

April 25, 2002
Date

Catherine Marshall Baritell
Catherine Marshall Baritell

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Before the Examiner:
Calderaro, et al.	:	
Serial No.: 09/895,977	:	Group Art Unit: 2163
Filed: June 29, 2001	:	Intellectual Property
Title: System and Method for	:	Law Department
Organizational Risk Based on	:	International Business
Personnel Planning Factors	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758

STATEMENT UNDER 37 C.F.R. SECTION 1.48(a)(2)
by Ann Haigler Spivey

Assistant Commissioner of Patents
Washington, D. C. 20231

RECEIVED
JAN 1 5 2003
Technology Center 2100

Received
MAY 2 2 2002
Technology Center 2100

Dear Sir:

I, Ann Haigler Spivey, state that I am a joint inventor of the above-identified application for patent.

The subject application was inadvertently filed omitting my name as a joint inventor through error and without deceptive intention on my part.

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.

April 24, 2002
Date

Ann Haigler Spivey
Ann Haigler Spivey

Received
MAY 2 2 2002
Technology Center 2100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Before the Examiner:
Calderaro, et al.	:	
Serial No.: 09/895,977	:	Group Art Unit: 2163
Filed: June 29, 2001	:	Intellectual Property
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Organizational Risk Based on	:	International Business
Personnel Planning Factors	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758

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CERTIFICATE UNDER 37 C.F.R. SECTION 3.73(b)

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MAY 2 8 2002
GROUP 3600

Assistant Commissioner of Patents
Washington, D. C. 20231

International Business Machines Corporation, a Corporation, certifies that it is the assignee of the entire right, title and interest in the above-identified patent application by virtue of an assignment from the inventors of the above-identified patent application. The assignment was recorded in the Patent and Trademark Office at Reel 011977, Frame 0539, a copy of which is attached.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein are 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 are made with the knowledge that willful false statements, and the like so made, are

punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 22 May 2002

By: Jeffrey L. Forman

Jeffrey L. Forman
Manager, Information Services
Intellectual Property Law, Washington

LETTER OF AUTHORITY

I, Marshall C. Phelps, Vice President, Intellectual Property and Licensing of International Business Machines Corporation (IBM), a New York corporation, do hereby delegate the authority to approve and execute documents on behalf of IBM relating to proceedings in the Patent, Trademark Registration or Copyright Offices servicing any country or region of the world, or to related appeal proceedings, including, but not limited to: petitions; powers of Attorney; authorizations; verification; nominations of representatives; declarations; documents relating to maintenance and defense of the resulting industrial property rights; assignments of rights to apply for and acquire patents and trademark registrations, and evidence of such assignments; request for the registration of patents as available for licensing; reports of inventions and petitions for waiver of patent rights to any department or agency of the United States Government; and, assignments, licenses and other instruments confirmatory of Government rights in patents and inventions, to Jeffrey L. Forman, Manager, Information Services, Intellectual Property Law, Washington.

Date: 3/25/96

Marshall C. Phelps, Jr.

Marshall C. Phelps, Jr.
Vice President - Intellectual Property & Licensing
International Business Machines Corporation

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Before the Examiner:
Calderaro, et al.	:	
Serial No.: 09/895,977	:	Group Art Unit: 2163
Filed: June 29, 2001	:	Intellectual Property
Title: System and Method for	:	Law Department
Organizational Risk Based on	:	International Business
Personnel Planning Factors	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758

CONSENT TO ADD INVENTORS

Received
MAY 2 2 2002
Technology Center 2100

Assistant Commissioner of Patents
Washington, D. C. 20231

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MAY 3 1 2002
Technology Center 2100

Dear Sir:

International Business Machines Corporation, the original sole assignee of the entire right, title and interest in and to the above-identified application hereby consents to the addition of Catherine Marshall Baritell and Ann Haigler Spivey as joint inventors in the U.S. Patent Application identified above.

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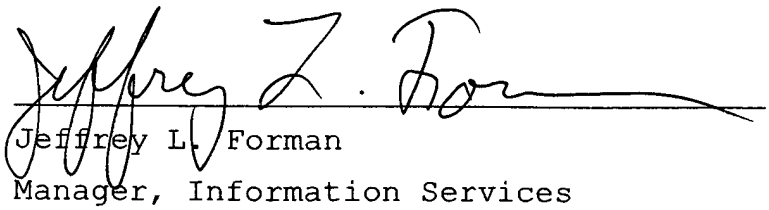
JAN 1 5 2003
Technology Center 2100

INTERNATIONAL BUSINESS MACHINES CORPORATION

By: 

Jeffrey L. Forman
Manager, Information Services
Intellectual Property Law, Washington

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JAN 1 6 2003
GROUP 3600

AUS920010235US1

LETTER OF AUTHORITY

I, Marshall C. Phelps, Vice President, Intellectual Property and Licensing of International Business Machines Corporation (IBM), a New York corporation, do hereby delegate the authority to approve and execute documents on behalf of IBM relating to proceedings in the Patent, Trademark Registration or Copyright Offices servicing any country or region of the world, or to related appeal proceedings, including, but not limited to: petitions; powers of Attorney; authorizations; verification; nominations of representatives; declarations; documents relating to maintenance and defense of the resulting industrial property rights; assignments of rights to apply for and acquire patents and trademark registrations, and evidence of such assignments; request for the registration of patents as available for licensing; reports of inventions and petitions for waiver of patent rights to any department or agency of the United States Government; and, assignments, licenses and other instruments confirmatory of Government rights in patents and inventions, to Jeffrey L. Forman, Manager, Information Services, Intellectual Property Law, Washington.

Date: 3/25/96

Marshall C. Phelps, Jr.
Vice President - Intellectual Property & Licensing
International Business Machines Corporation

Docket Number: **AUS920010235US1**

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

RECEIVED
JAN 16 2003
GROUP 3600

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

SYSTEM AND METHOD FOR ORGANIZATIONAL RISK BASED ON PERSONNEL PLANNING FACTORS

RECEIVED
JAN 15 2003
Technology Center 2100

Received
MAY 22 2002
Technology Center 2100

the specification of which (check one)

___ is attached hereto.

__X__ was filed on __June 29,2001__
as Application Serial No. 09/895,977
and was amended on _____
(if applicable)

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 patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or (f), or 365(b) of any foreign applications(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, any foreign application for patent inventor's or plant breeder's rights certificate(s) or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s):			**Priority Claimed**	**Certified Copy Attached**
_____	_____	_____	___ Yes ___ No	___Yes ___No
(Number)	**(Country)**	**(MM/DD/YYYY)**		

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

John W. Henderson, Jr., Reg. No. 26,907; James H. Barksdale, Jr., Reg. No. 24,091; Thomas E. Tyson, Reg. No. 28,543; Robert M. Carwell, Reg. No. 28,499; Jeffrey S. LaBaw, Reg. No. 31,633; Douglas H. Lefeve, Reg. No. 26,193; Casimer K. Salys, Reg. No. 28,900; David A. Mims, Jr., Reg. No. 32,708; Mark E. McBurney, Reg. No. 33,114; Leslie A. Van Leeuwen, Reg. No. 42,196; Christopher A. Hughes, Reg. No. 26,914; Stanley B. Green, Reg., No. 24,351; John E. Hoel, Reg. No. 26,279; Joseph C. Redmond, Jr., Reg. No. 18,753; and Marilyn S. Dawkins, Reg. No. 31,140, Cynthia S. Byrd, Reg. No. 39,365, Joseph T. Van Leeuwen, Reg. No. 44, 383.

Send correspondence to: **Joseph T. Van Leeuwen, P.O. Box 81641, Austin, Texas 78708-1641 and direct all telephone calls to (512) 301-6738.**

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: Michael Joseph Calderaro

INVENTORS SIGNATURE: Michael Joseph Calderaro DATE: 5/1/2

RESIDENCE: 401 Explorer St.
Austin, Texas 78734

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SECOND INVENTOR: Robert John Castro

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 406 Autumngate Drive
Raleigh, North Carolina 27606

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF THIRD INVENTOR: Corrine Glavin Krumenacker

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 2200 Heathrowe Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF FOURTH INVENTOR: Lynn P. Lepore

INVENTORS SIGNATURE: Lynn P. Lepore DATE: 5-01-02

RESIDENCE: 3707 Hidden Estates Drive
Austin, Texas 78727

CITIZENSHIP: USA

PO ST OFFICE ADDRESS: Same as above

FULL NAME OF FIFTH INVENTOR: William Daniel Ordway, Jr.

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 8 Edgecombe Ct
Smithfield, North Carolina 27577

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SIXTH INVENTOR: Patricia E. Vickers

INVENTORS SIGNATURE: Patricia E. Vickers DATE: 5/01/02

RESIDENCE: 2213 Macaw Drive
Cedar Park, Texas 78613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SEVENTH INVENTOR: Catherine Marshall Baritell

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 4204 Windsor Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF EIGHTH INVENTOR: Ann Haigler Spivey

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 8101 Kingsland Drive
Raleigh, North Carolina 27613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

Docket Number: **AUS920010235US1**

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

Received
MAY 2 2 2002
Technology Center 2100

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

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SYSTEM AND METHOD FOR ORGANIZATIONAL RISK BASED ON PERSONNEL PLANNING FACTORS

RECEIVED
JAN 1 5 2003
Technology Center 2100

the specification of which (check one)

___ is attached hereto.

__X__ was filed on __June 29,2001__
as Application Serial No. 09/895,977
and was amended on _____
(if applicable)

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INVENTORS SIGNATURE:_____ DATE: _____

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Austin, Texas 78734

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SECOND INVENTOR: Robert John Castro

INVENTORS SIGNATURE: Robert John Castro DATE: Apr. 24, 2002

RESIDENCE: 406 Autumngate Drive
Raleigh, North Carolina 27606

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF THIRD INVENTOR: Corrine Glavin Krumenacker

INVENTORS SIGNATURE: Corrine Glavin Krumenacker DATE: April 24, 2002

RESIDENCE: 2200 Heathrowe Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF FOURTH INVENTOR: Lynn P. Lepore

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RESIDENCE: 3707 Hidden Estates Drive
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CITIZENSHIP: USA

PO ST OFFICE ADDRESS: Same as above

FULL NAME OF FIFTH INVENTOR: William Daniel Ordway, Jr.

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 8 Edgecombe Ct
Smithfield, North Carolina 27577

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SIXTH INVENTOR: Patricia E. Vickers

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 2213 Macaw Drive
Cedar Park, Texas 78613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SEVENTH INVENTOR: Catherine Marshall Baritell

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 4204 Windsor Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF EIGHTH INVENTOR: Ann Haigler Spivey

INVENTORS SIGNATURE: Ann Haigler Spivey DATE: April 24, 2002

RESIDENCE: 8101 Kingsland Drive
Raleigh, North Carolina 27613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

Docket Number: **AUS920010235US1**

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

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SYSTEM AND METHOD FOR ORGANIZATIONAL RISK BASED ON PERSONNEL PLANNING FACTORS

the specification of which (check one)

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Lefeve, Reg. No. 26,193; Casimer K. Salys, Reg. No. 28,900; David A. Mims, Jr., Reg. No. 32,708; Mark E. McBurney, Reg. No. 33,114; Leslie A. Van Leeuwen, Reg. No. 42,196; Christopher A. Hughes, Reg. No. 26,914; Stanley B. Green, Reg., No. 24,351; John E. Hoel, Reg. No. 26,279; Joseph C. Redmond, Jr., Reg. No. 18,753; and Marilyn S. Dawkins, Reg. No. 31,140, Cynthia S. Byrd, Reg. No. 39,365, Joseph T. Van Leeuwen, Reg. No. 44, 383.

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INVENTORS SIGNATURE:_____ DATE: _____

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Austin, Texas 78727

CITIZENSHIP: USA

PO ST OFFICE ADDRESS: Same as above

FULL NAME OF FIFTH INVENTOR: William Daniel Ordway, Jr.

INVENTORS SIGNATURE: William Daniel Ordway DATE: 4-24-2002

RESIDENCE: 8 Edgecombe Ct
Smithfield, North Carolina 27577

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SIXTH INVENTOR: Patricia E. Vickers

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 2213 Macaw Drive
Cedar Park, Texas 78613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SEVENTH INVENTOR: Catherine Marshall Baritell

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CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF EIGHTH INVENTOR: Ann Haigler Spivey

INVENTORS SIGNATURE:_____ DATE: _____

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I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or (f), or 365(b) of any foreign applications(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, any foreign application for patent inventor's or plant breeder's rights certificate(s) or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s):			**Priority Claimed**	**Certified Copy Attached**
_____	_____	_____	____Yes ___No	___Yes ___No
(Number)	**(Country)**	**(MM/DD/YYYY)**		

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

John W. Henderson, Jr., Reg. No. 26,907; James H. Barksdale, Jr., Reg. No. 24,091; Thomas E. Tyson, Reg. No. 28,543; Robert M. Carwell, Reg. No. 28,499; Jeffrey S. LaBaw, Reg. No. 31,633; Douglas H.

Lefeve, Reg. No. 26,193; Casimer K. Salys, Reg. No. 28,900; David A. Mims, Jr., Reg. No. 32,708; Mark E. McBurney, Reg. No. 33,114; Leslie A. Van Leeuwen, Reg. No. 42,196; Christopher A. Hughes, Reg. No. 26,914; Stanley B. Green, Reg., No. 24,351; John E. Hoel, Reg. No. 26,279; Joseph C. Redmond, Jr., Reg. No. 18,753; and Marilyn S. Dawkins, Reg. No. 31,140, Cynthia S. Byrd, Reg. No. 39,365, Joseph T. Van Leeuwen, Reg. No. 44, 383.

Send correspondence to: **Joseph T. Van Leeuwen, P.O. Box 81641, Austin, Texas 78708-1641 and direct all telephone calls to (512) 301-6738.**

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: Michael Joseph Calderaro

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 401 Explorer St.
Austin, Texas 78734

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SECOND INVENTOR: Robert John Castro

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 406 Autumngate Drive
Raleigh, North Carolina 27606

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF THIRD INVENTOR: Corrine Glavin Krumenacker

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 2200 Heathrowe Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF FOURTH INVENTOR: Lynn P. Lepore

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 3707 Hidden Estates Drive
Austin, Texas 78727

CITIZENSHIP: USA

PO ST OFFICE ADDRESS: Same as above

FULL NAME OF FIFTH INVENTOR: William Daniel Ordway, Jr.

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 8 Edgecombe Ct
Smithfield, North Carolina 27577

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SIXTH INVENTOR: Patricia E. Vickers

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 2213 Macaw Drive
Cedar Park, Texas 78613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF SEVENTH INVENTOR: Catherine Marshall Baritell

INVENTORS SIGNATURE: Catherine Marshall Baritell DATE: April 25, 2002

RESIDENCE: 4204 Windsor Place
Raleigh, North Carolina 27609

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

FULL NAME OF EIGHTH INVENTOR: Ann Haigler Spivey

INVENTORS SIGNATURE:_____ DATE: _____

RESIDENCE: 8101 Kingsland Drive
Raleigh, North Carolina 27613

CITIZENSHIP: USA

POST OFFICE ADDRESS: Same as above

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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Tischer, Steven Neil	:	DECISION ON PETITION
Application No. 09/895,989	:	TO WITHDRAW
Filed: June 29, 2001	:	FROM RECORD
Attorney Docket No. BELL-0111/01145	:	

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. § 1.36(b) is moot.

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

There is an outstanding Office action mailed April 7, 2006 that requires a reply.

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: POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG VA 22404

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP S JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of :
Arnold, et al. :
Application No. 09/896,004 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. ETH-1572 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2004, 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 March 29, 2004. This Office action set a shortened statutory period for reply of three months. Applicants filed an amendment on July 1, 2004, made timely by including a Certificate of Mailing dated June 29, 2004. However, by Advisory Action mailed October 18, 2004, applicants were advised that the amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, no further reply with an extension of time having been received, the above-identified application became abandoned on June 30, 2004. A Notice of Abandonment was mailed on December 2, 2004.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of a Request for Continued Examination (RCE) and the submission in the form of an Amendment.

The petition fee of $1,500 and the RCE fee of $790 have been charged to Deposit Account No. 10-0750, as authorized.

The application file is being forwarded to Group Art Unit 1616 for consideration of the RCE and the Amendment, both filed January 31, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

Paper No. 7

THOMASON, MOSER & PATTERSON, LLP
Suite B
4149 El Camino Way
Palo Alto CA 94306-4036

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MAR 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Herndon, Pham, and Menoud :
Application No.: 09/896,006 :
Filed: June 28, 2001 : DECISION ACCORDING
Attorney Docket No: 8032988/JAS : STATUS UNDER
For: RESONANT SHIFTING AND REDUCTION : RULE 47(a)
OF MODAL DISPLACEMENT :
FOR IMPROVED ACOUSTICS :

This is in response to the petition under 37 CFR 1.47(a), filed February 12, 2002, certificate of mailing dated January 22, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 20, 2001, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed a request for a three-month extension of the time set for reply and the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although the inventor Menoud was mailed and e-mailed the complete application papers (specification, abstract, claims, and assignment) inventor Menoud declined to execute the declaration. It is noted that inventor Menoud executed and returned the assignment that accompanied the application, but did not return the declaration. Inventor Menoud's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and 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.

Pursuant to the authorization provided by petitioner, deposit account 20-0782 will be charged $130.00 for the petition fee.

Petitioner is advised that the firm name as cited on the instant petition, "Moser, Patterson & Sheridan, LLP" differs from the name cited on the declaration and in Office records ("Thomason, Moser & Patterson, LLP.") Petitioner should provide appropriate written instructions to the Office, as soon as possible, clarifying the name of the firm.

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

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Francois Menoud
600 Park Avenue, Apt.9D
Capitola, California 95010

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MAR 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Herndon, Pham, and Menoud :
Application No.: 09/896,006 : LETTER
Filed: June 28, 2001 :
For: RESONANT SHIFTING AND REDUCTION :
OF MODAL DISPLACMENT FOR IMPROVED ACOUSTICS :

Dear Mr. Menoud:

You are a joint inventor in the above-identified United States patent application filed under 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 as a joint inventor.

As you are 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 Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington, DC area).

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

Thomason, Moser & Patterson, LLP
Suite B
4149 El Camino Way
Palo Alto, California 94306-4036

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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APR 1 6 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Hollar, et al.
Application No. 09/896,026
Filed: June 29, 2001
Attorney Docket No.: 65877-0004

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application filed February 26, 2003. This petition is being treated under 37 CFR 1.137(b) to revive the above-identified unintentionally abandoned application.

Petitioner is advised that the filing of a petition pursuant to 37 CFR 1.137(b) for failure to notify the Office of a foreign filing in accordance with 35 USC 122(b)(2)(B)(iii) **will not** relieve petitioner of the obligation to reply to any outstanding Office action.

The petition is **GRANTED** and the Non-Publication Request is hereby **RESCINDED**.

This application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the Office of an application filed in a foreign country or filed pursuant to an international multilateral agreement requiring publication of applications eighteen (18) months from filing.

A petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply which is met by the notification of filing in a foreign country or under a multinational international agreement; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office within 45 days of the filing of an application in a foreign country or the filing of an application under an international multinational agreement as required by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Enclosed please find a corrected filing receipt setting forth a projected date of publication along with official Notice Regarding Rescission of Nonpublication Request.

This application is being forwarded to Technology Center 3600 to await response to the outstanding Office communication mailed December 11, 2002.

outstanding Office communication mailed December 11, 2002.

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

Enclosures: Corrected Filing Receipt
Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

In re Application of
Terri Hollar, et al.
Application No. 09/896,026
Filed: June 29, 2001
For: A LEASE TRANSACTION MAGAGEMENT AND ACCOUNTING SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition filed in the United States Patent and Trademark Office on September 10, 2003, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action dated December 11, 2002 and a notice to that effect was mailed on August 6, 2003.

Applicant has submitted as evidence of the alleged timely response by facsimile transmission a copy of a facsimile transmission report. The facsimile transmission report included with the petition cannot serve as proof of timely filing.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

The petition fails, under requirement (2), to include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, *by the person who signed the certificate*.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/4/03

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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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JUN 29 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Rader, Fishman & Grauer PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, MI 48304-0610

In re Application of
Terri Hollar et al.
Application No. 09/896,026
Filed: June 29, 2001
For: LEASE TRANSACTION MANAGEMENT AND ACCOUNTING SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on March 10, 2004.

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

☐ Postcard receipt being dated_____.

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

☒ Certificate of Mailing/Transmission signed on March 8, 2004 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

SNM/vdb/ 6/22/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DR. RUSSELL W. GUENTHNER
BULL HN INFORMATION SYSTEMS INC.
13430 N. BLACK CANYON HWY. - B55
PHOENIX, AZ 85029

COPY MAILED

APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence et al.	:	
Application No. 09/896,037	:	ON PETITION
Filed: June 29, 2001	:	
Attorney Docket No. 52003205	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
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.

Richard A. Dunning Jr.
LAW OFFICE OF RICHARD A DUNNING JR.
343 Soquel Avenue
Suite 311
Santa Cruz, CA 95062

MAILED

DEC 0 6 2004

Technology Center 2100

In re Application of:
Frey
Application No. 09/896,039
Filed: June 29, 2001
For: SYSTEM AND METHOD FOR ADMINISTERING SECURITY IN A CORPORATE PORTAL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 3, 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 November 3, 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: GRAY CARY WARE & FREIDENRICH
153 Townsend Street, Suite 800
San Francisco, CA 94107-2501

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 ELASTOMERICS INC.
163 W. HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of :
John Y. Chen :
Application No. 09/896,047 : NOTICE
Filed: June 30, 2001 :
Attorney Docket No. 41 :

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 application file is being referred to Technology Center AU 1764.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: David J. Schmitz	: DECISION ON REQUEST FOR
Patent Number	: 7653584	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/896,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2172** 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 5/6/05

rld

In re application of	:	
Cheol Kyun Kim	:	DECISION ON
Serial No. 09/896,102	:	PETITION
Filed: July 2, 2001	:	
For: STENCIL MASK FOR ELECTRON BEAM	:	
PROJECTION LITHOGRAPHY AND FABRICATION METHOD	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed March 26, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed on August 25, 2003, for failure to timely pay the required issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn. The requester asserts that the required issue fee and publication fee was paid in a response filed on July 9, 2003 as indicated by a copy of the date stamped receipt and transmittal letter submitted. (A copy of the reply is attached to the instant petition as well as a copy of the USPTO date stamped receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on July 9, 2003 as evidenced by the USPTO date stamped receipt. Accordingly, any holding of abandonment for failure to timely pay the required issue fee and publication fee is hereby vacated.

The application has been forwarded to the Publication Division for processing.

It is further noted that the instant petition was accompanied by a $130.00 petition fee. However, a petition of this type does not require a petition fee. Therefore, a refund of the $130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

In re Application of:
Jacques Van Den Dool
Application No. 09/896,138
Filed: June 29, 2001
For: DISTRIBUTED DECISION PROCESSING SYSTEM WITH ADVANCED COMPARISON ENGINE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 10, 2004.

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

The request is **GRANTED.**

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: M.H. de Vries
Van Doorne Lawyers in Business
Jachteavenweg 121
P.O. Box 75265
1070 AG Amsterdam
The Netherlands

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JAN - 5 2004

Paper No. 8

In re Application of
George V. Paul *et al*
Application No. 09/896,150
Filed: June 29, 2001
Attorney Docket No. CYB-07003/03

: DECISION ON PETITION

This is a decision on the petition filed on December 4, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated March 20, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on August 20, 2003, a date within the time set by the Office letter in question for filing a reply thereto as extended by two months. In support of this allegation, petitioners have supplied a copy of an amendment, a copy of a post card receipt showing that an amendment, a copy of a transmittal letter for the amendment which includes a request for any necessary extension of time, and an authorization to charge counsel's deposit account for the extension fee, were in fact filed in the Office on August 20, 2003. Office financial records confirm that the extension fee was received on August 20, 2003.

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 August 20, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

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

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SAN FRANCISCO CA 94111-3834

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JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Jerdonek :
Application No. 09/896,163 : DECISION ON PETITION
Filed: June 28, 2001 :
Attorney Docket No. 020967-000220US :

This is a decision on the petition under 37 CFR 1.182, filed, April 29, 2010, to obtain duplicate Letters Patent.

The petition is **GRANTED**.

Petitioner paid only $130.00 toward the $400.00 petition fee under 37 CFR 1.182. Deposit account no. 20-1430 will be charged the $270.00 balance due for consideration of the instant petition.

The Office of Data Management is directed to issue duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9753)

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NEW YORK NY 10112

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Mruz et al.	:	
Application No. 09/896,171	:	ON PETITION
Filed: 29 June, 2002	:	
Attorney Dkt No. A34634-070378.0108	:	

This is a decision on the petition filed on 25 October, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **dismissed**.

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

The application became abandoned on 31 March, 2004, for failure to timely reply to the Office action in accordance with *Ex parte*

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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)).

Quayle[2] mailed on 30 January, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 August, 2004.

Petitioners assert that the Office action mailed on 30 January, 2004, was never received. Petitioners further assert that the attorney docket number referenced on the Office action mailed on 30 January, 2004, is incorrect.

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

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[2]1935 C.D. 11, 453 O.G. 213

[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).

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]

Petitioners assert that the Office action mailed on 30 January, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[7] 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).

Petitioners have failed to provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Additionally a statement from the practitioner stating that a search of the file jacket and docket records indicates that the Office communication in question was not received has not been provided.

Additionally, with regard to petitioners' contention that the attorney docket number reflected in USPTO records for this case

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[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

[7]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

is incorrect, it is noted that the docket number reflected on the Office action mailed on 30 January, 2004 (A30904-070378.0107) is the same docket number which appeared on the application transmittal letter and specification filed with the original application papers on 29 June, 2001. Nevertheless, the attorney docket number has been corrected per petitioners' request.

As petitioners have provided no showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

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

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

(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).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encls: Form PTO/SB/64
Privacy Act Notification

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JUN 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Mruz et al.	:	
Application No. 09/896,171	:	ON PETITION
Filed: 29 June, 2002	:	
Atty Docket No. A34634-070378.0108	:	

This is a decision on the petition filed on 25 March, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 31 March, 2004, for failure to timely reply to the Office action in accordance with *Ex parte*

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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.

(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)).

Quayle[2] mailed on 30 January, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 August, 2004. The petition filed on 25 October, 2004, was dismissed on 24 January, 2005.

Petitioners' reply filed on 25 March, 2005, has been deemed to place this case in condition for allowance.

The application file is being referred to Technology Center 2817 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] 1935 C.D. 11, 453 O.G. 213

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TAYLOR & ZAFMAN LLP
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SEVENTH FLOOR
LOS ANGELES CA 90025

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OFFICE OF PETITIONS

In re Application of :
Cierniak :
Application No. 09/896,206 : DECISION
Filed: 29 June, 2001 :
Attorney Docket 2207/11235 :

This is a decision on the petition filed on 26 June, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, no terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, to wit:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 6 March, 2006, with reply due absent an extension of time on or before 6 June, 2006.

The application went abandoned by operation of law after midnight 6 June, 2006.

It does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed.

On 26 June, 2007, Petitioner filed the instant petition with fee and, *inter alia*, a reply in the form of a request for continued examination and fee and an amendment as a submission under the provisions of 37 C.F.R. §1.114, and made a proper statement of unintentional delay.

The Office mailed the Notice of Abandonment on 11 July, 2007.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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

[1] 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). See specifically, the regulations at 37 C.F.R. §10.18.

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.[2],[3]

CONCLUSION

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

The instant application is released to Technology Center/Au 2194 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU 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—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[2] 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).

[3] 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. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. 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.))

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

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JUL 23 2008

OFFICE OF PETITIONS

In re Application of :
Arturo A. Rodriguez, et al. :
Application No. 09/896, 231 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. A-7259 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely respond to a decision by the Board of Patent Appeals and Interferences mailed November 6, 2007. A Notice of Abandonment was mailed January 16, 2008. In response on March 11, 2008, the present petition was filed, along with a Request for Continued Examination (RCE) under 37 CFR 1.114.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of David Rodack appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Rodack desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

This application is being referred to Technology Center AU 2623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID RODACK
600 GALLERIA PARKWAY, SUITE 1500
ATLANTA, GA 30339

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

RADER FISHMAN & GRAUER, PLLC
SUITE 140
39533 WOODWARD
BLOOMFIELD HILLS, MI 48304

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Terri Hollar et al :
Application No. 09/896,236 : DECISION GRANTING PETITION
Filed: June 29, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 65877-0009 :

This is a decision on the petition, filed March 4, 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 June 28, 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.

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 19, 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 3627 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

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 17.

GUERRY LEONARD GRUNE
784 S VILLIER CT.
VIRGINIA BEACH VA 23452

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of
Grune et al.
Application No. 09/896,238
Filed: June 29, 2001
Attorney Docket No.: n/a

: ON PETITION

This application has been referred to this office in view of the communication filed July 24, 2004, captioned "withdrawal of express abandonment" which is being treated in a light most favorable to applicants as a petition under 37 CFR 1.182 asking that the USPTO disregard the letters of express abandonment filed October 16, 2003.

So construed, the petition is **granted.**

Petitioners are apparently concerned that notwithstanding that prosecution has continued since October 16, 2003, when an RCE was also filed, and to date, the USPTO has not recognized the aforementioned letters of express abandonment filed under 37 CFR 1.138, there remains the possibility of recognition.

Inspection of the record reveals that petitioner also made such express abandonment contingent on the (then) filing of a continuing application, a circumstance that did not occur, and given the fact that this application was not then closed to prosecution, an express abandonment was an extremely unlikely–and unnecessary-- reply to a non final office action, especially in light of the concurrent filing of a request for continued examination of the same application. Unless and until a letter of express abandonment is timely acknowledged by an appropriate USPTO official, that letter has no force and effect. See 37 CFR 1.138(a); MPEP 711.01. Manifestly, the USPTO has not recognized the letters of express abandonment to date herein, and, on petition, the USPTO will continue to disregard the letters purporting to expressly abandon this application filed October 16, 2003. On a one time basis, the fee for this petition is waived.

This application is being returned to Technology Center AU 2175.

Telephone inquiries related to this communication should be directed to the undersigned 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

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CAPITOL PATENT & TRADEMARK LAW
FIRM, PLLC
P.O. BOX 1995
VIENNA VA 22183

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Carl A. Caroli et al :
Application No. 09/896,248 : DECISION GRANTING PETITION
Filed: June 29, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2-54-9 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received September 1, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2613 to consider the Appeal Brief received September 1, 2007.

Karen Creasy

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

Mail Date: 04/20/2010

Applicant	: Joseph L. Hellerstein	: DECISION ON REQUEST FOR
Patent Number	: 7610228	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/896,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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MAR 1 1 2003
OFFICE OF PETITIONS

In re Application of :
Terri Hollar et al :
Application No. 09/896,263 : DECISION GRANTING PETITION
Filed: June 29, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 65877-0008 :

This is a decision on the petition, filed March 3, 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 June 28, 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.

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 19, 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 3627 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
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Paper No. 3

MAIL

SEP 27 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JAMES A MERINGER
SPECIALIZED CONTROL SYSTEMS
4014 WEST VAN BUREN
SUITE 12
PHOENIX AZ 85009

In re Application of:
James A. Meringer
Application No. 09/896,294
Filed: July 2, 2001
For: HANDHELD DEVICE WITH QWERTY KEYBOARD AND DISPLAY

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 28, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition does not meet items 2 through 6 listed above. Accordingly, the petition is **DENIED**.

It is noted that petitioner has supplied the wrong form for the petition. The one submitted was for a design application.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

The application is being forwarded to the group Central Files and will await action in its regular turn.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

TORREY MESA RESEARCH INSTITUTE
INTELLECTUAL PROPERTY DEPARTMENT
3115 MERRYFIELD ROW
SAN DIEGO CA 92121

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of
Li et al.
Application No. 09/896,324
Filed: June 29, 2001
Attorney Docket No. 45163-1008

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed February 12, 2002 (certificate of mailing date January 22, 2002), to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely notify the Office of the filing of an application in a foreign country that requires publication of applications 18 months after filing.

The Power of Attorney or Authorization of Agent, filed February 8, 2002, has been entered and made of record. All future correspondence concerning this application will be mailed to the above-identified correspondence address of record. A courtesy copy of this decision is being mailed to the former attorney of record who filed the instant petition.

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

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

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

cc: MITCHELL P. BROOK
BAKER & MCKENZIE
12TH FLOOR
101 WEST BROADWAY
SAN DIEGO, CA 92101-3890

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 08-06

Paper No: __

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OFFICE OF PETITIONS

NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY
PRINCETON NJ 08540

In re Application of	:	
Glover, et al.	:	DECISION
Application No. 09/896,338	:	
Filing Date: 29 June, 2001	:	
Attorney Docket No.: NECI1102	:	

This is a decision on the petition filed on 26 July, 2006, seeking to revive the instant application under 37 C.F.R. §1.137(a) as abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 31 May,

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

2005, with reply due absent extension of time on or before 31 August, 2005;

- on 31 August, 2005, Petitioner filed an after-final amendment, which Petitioner as one registered to practice before the Office is aware is not of right and was not a proper reply,[2] and the Examiner mailed an Advisory Action on 12 October, 2005;

- the instant application went abandoned by operation of law after midnight 31 August, 2005;

- the Office mailed the Notice of Abandonment on 18 July, 2006;

- on 26 July, 2006, Petitioner filed, *inter alia*, the instant petition his statement and documents in support thereof (including an Office FAX confirmation receipt (in lieu of a date-stamped receipt card (see: MPEP §503[3]) dated 18 October, 2005) averring timely

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[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

transmission via FAX of a Request for Continued Examination (RCE), with fee authorization and pointing to the previously filed after-final amendment as the submission under 37 C.F.R. §1.114, request for extension of time and fee authorization–all as a proper and timely reply.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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[4] 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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8] And the Petitioner must be diligent in attending to the matter.[9] 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.[10]))

As to Allegations of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a

---

[5] 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.

[6] 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.

[7] 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).

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

[9] 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.

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

showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is forwarded to Technology Center 2100 for further procdessing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAIL

FEB 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 6

WAGNER, MURABITO & HAO L.L.P.
Two North Market Street, Third Floor
San Jose, CA 95113

In re Application of:
Miller
Application No.: 09/896,370
Filed: June 28, 2001
For: Packetized Data Transmission In A Switched Router Architecture

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed January 28, 2002.

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

The request meets all the above-listed requirements. The request is **GRANTED**.

The request included the present mailing address of the withdrawing attorneys, was signed by an attorney on behalf of others, included the mailing address of applicant, and complied with the requirements of 37 C.F.R. § 10.40(c), per assignee request. All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Requestor also notes that a copy of the request was sent to the Applicant (Assignee) in accordance with 37 C.F.R. § 10.40(a). The application file is being returned to the Technology Center's central files.

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

cc: Silicon Graphics, Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043-1351

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

HAYES, SOLOWAY, HENNESSEY,
GROSSMAN & HAGE, P.C.
130 W. Cushing Street
Tucson AZ 85701

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AUG 2 9 2002

OFFICE OF PETITIONS

Applicant: Wilson et al.
Appl. No.: 09/896,375
Filing Date: June 29, 2001
Title: FLAVORING COMPOSITION AND PROCESS FOR BREWING MALT BEVERAGES
Attorney Docket No.: STEINER 00.01
Pub. No.: US 2002/0076475 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 via facsimile transmission on August 16, 2002 for the above-identified application. This is also in response to the petition under 37 CFR 1.182 to change the order of the inventor's names, filed April 24, 2002.

The request is DISMISSED.

The petition under 37 CFR 1.182 is granted.

The instant request is that the application be republished because the patent application publication contains the inventors in the wrong order, as Richard J. H. Wilson should be listed as the first inventor. On April 17, 2002, applicant filed a petition to change the order of the inventors.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . .. The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." 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:

[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).

The instant request does not identify a mistake that is the fault of the Office. On December 27, 2001, applicant filed a declaration listing the order of inventors as Adam Gimbel, Trevor Roberts, Robert Smith and Richard Wilson. The patent application publication listed the inventors in the order presented on the declaration.

Although, applicant's petition to change the order of the inventors, filed on April 24, 2002, was received too late for the information to be used for publication of the application, the petition is now granted and the information has been changed in the Office records.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta for KF

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

Enclosure: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: 5

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

COPY MAILED

MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of
Budagavi :
Application No. 09/896,386 :
Filing Date: 29 June, 2001
Attorney Docket No. TI-31209 :

This is a decision on the petition filed on 12 October, 2004, 2004, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a).

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2)

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts mailed on 21 August, 2001, with reply due absent extension of time on or before Monday, 22 October, 2001;
- the instant application went abandoned after midnight 21 October, 2001;
- the Office mailed a Notice of Abandonment on 28 November, 2003;
- with the instant petition (with fee authorization), Petitioner submits the required reply (oath/declaration)–Petitioner alleges non-receipt but does not evidence (e.g., with a mail log or due date docket sheet for 22 October, 2001) that the Office action was not received or other such support for the allegation of unavoidable delay, nor does Petitioner explain the failure to submit a Status Inquiry at reasonable interval (*e.g.*, four or six months) to evidence due diligence.

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

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(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). (Emphasis supplied.)

[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.

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]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

With regard to the petition to revive under 37 C.F.R. §1.137(a), Petitioner has failed to satisfy the "showing" requirement under the regulation.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "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").

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[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.

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

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

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES 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.: 01-06

Paper No: 5

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

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of
Budagavi :
Application No. 09/896,386 :
Filing Date: 29 June, 2001
Attorney Docket No. TI-31209 :

This is a decision on the petition filed on 18 May, 2005, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts mailed on 21 August, 2001, with reply due absent extension of time on or before Monday, 22 October, 2001;

- the instant application went abandoned after midnight 21 October, 2001;

- the Office mailed a Notice of Abandonment on 28 November, 2003;

- with the original petition (with fee authorization), Petitioner submitted the required reply (oath/declaration)–Petitioner alleged non-receipt but does not evidence (e.g., with a mail log or due date docket sheet for 22 October, 2001) that the Office action was not received or other such support for the allegation of unavoidable delay, for which reasons the petition was dismissed on 9 March, 2005;

- the instant petition alleging unintentional delay was filed on 18 May, 2005, and, as noted, Petitioner previously satisfied the reply requirement.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a declaration/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the regulatory requirements.

CONCLUSION

The instant petition is **granted**.

The instant application is forwarded to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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

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)
6703910	2004-03-09	09896389	2001-06-29	

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	/JLD/	Date (YYYY-MM-DD)	2008-06-03
Name	John L. Doughty	Registration Number	47533

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. 6703910
Issue Date: March 9,2004
Application No. 09896389
Filed: June 29,2001
Attorney Docket No. ANTEC78(012314.111711)

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

This is a decision on the electronic petition, filed June 3,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 3,2008 . 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

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

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Saadeh et al.	:	
Application No. 09/896,428	:	ON PETITION
Filed: June 29, 2001	:	
Attorney Docket No.	:	
200302996-5	:	

This is a decision on the Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120, filed August 5, 2005, 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 concurrently filed amendment.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.
>
> The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after

expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional 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 (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2877 for processing of the concurrently filed Request for Continued Examination 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.

Frances Hicks
Lead Paralegal
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

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

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Bennett et al.	:	DECISION ON PETITION
Application No. 09/896,438	:	TO WITHDRAW
Filed: June 28, 2001	:	FROM RECORD
Attorney Docket No. 017887-005210US	:	

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 6, 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 Philip H. Albert on behalf of all attorneys of record who are associated with Customer Number 20350.

All attorneys/agents associated with Customer Number 20350 have been withdrawn. Applicants are 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the assignee of the entire interest at the first below-listed address until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 2, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

YAHOO! INC.
701 FIRST AVENUE
SUNNYVALE, CA 94089

MORRISON AND FOERSTER LLP
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SAN FRANCISCO, CA 94105

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

Penelope S. Wilson
Office of the General Counsel
EMC Corporation
35 Parkwood Drive
Hopkinton, MA 01748-9103

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JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Natan Vishlitzky, et al. :
Application No. 09/896,485 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. EMC-01-081 :

This is a decision on the petition filed May 2, 2002, which is being treated solely as a petition 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 in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 21, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 22, 2001.

The Associate Power of Attorney and Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to 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

Latrice Bond

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

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Paper No. 4

MCDERMOTT WILL 7 EMERY
28 STATE STREET
BOSTON, MA 02109-1775

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OCT 2 3 2001

OFFICE OF PETITIONS

In re Application of
Charles Tapalian et al
Application No. 09/896,520
Filed: June 28, 2001
Attorney Docket No. CSLL-628 56247-165

: DECISION GRANTING
: PETITION

This is a decision on the petition filed September 28, 2001, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 28, 2001, rather than the presently accorded filing date of June 29, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on June 28, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL721016725US, showing a Date-In of June 28, 2001. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the present petition. Applicants request that the application be accorded a filing date of June 28, 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 June 28, 2001.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed August 21, 2001, and for correction of the filing date to June 28, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Albert et al. :
Application No. 09/896,546 : DECISION ON PETITION
Deposited: June 29, 2001 :
Attorney Docket No. INK-022CN2 :

This is a decision on the "PETITION TO REVIEW A NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION UNDER 37 C.F.R. 1.53(e)(2)," filed September 6, 2001, requesting that the above-identified application be accorded a filing date of June 29, 2001 by virtue of an incorporation by reference of the omitted drawings. This petition was recently forwarded to the undersigned for consideration.

Application papers in the above-identified application were deposited on June 29, 2001. However, on August 1, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, the instant petition was timely filed. Petitioner submits that, even if submitted without drawings, the instant application, as filed, should be accorded the filing date of June 29, 2001, and a priority date of July 20, 1995. Petitioner submitted a true copy of the application transmittal, containing an incorporation-by-reference of application No. 09/140,988. Petitioner states that the '988 includes drawings corresponding to the 13 sheets of informal drawings that were intended to be included in the package sent on June 29, 2001.

MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the

> incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

The application as filed included a proper incorporation by reference statement. The instant petition is being treated as the petition under § 1.182 (and required petition fee). However, the petition does not include an amendment requesting that the drawings from the prior application be included in the continuation application based on the incorporation by reference statement. More importantly, the petition does not include the 13 sheets of informal drawings.

In view thereof, the petition under § 1.182 is DISMISSED without prejudice to reconsideration upon the submission of the amendment submitting the omitted material and the omitted material, 13 sheets of informal drawings. These papers should be submitted under cover of a paper entitled "Renewed Petition under § 1.182." Petitioner is reminded that drawings needed for a filing date may not be submitted by facsimile transmission[1].

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
ATTN: NANCY JOHNSON

By hand:
CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202
ATTN: NANCY JOHNSON, OFFICE OF PETITIONS

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[1] To facilitate the quick resolution of this matter, attorney for applicants may wish to advise the undersigned by telephone when the drawings have been filed, so that she can anticipate their arrival.

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Albert et al. :
Application No. 09/896,546 : DECISION ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. INK-022CN2 :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.182," filed March 29, 2004, requesting that the above-identified application be accorded a filing date of June 29, 2001 by virtue of an incorporation by reference of the omitted drawings.

Application papers in the above-identified application were deposited on June 29, 2001. However, on August 1, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. On September 6, 2001, applicants timely filed the initial petition, asserting that, even if submitted without drawings, the instant application, as filed, should be accorded the filing date of June 29, 2001, and a priority date of July 20, 1995, based on an incorporation-by-reference of application No. 09/140,988.

By decision mailed March 8, 2004, it was concluded that the application-as-filed included an incorporation by reference statement. However, the petition had to be dismissed because it did not include a copy of the omitted drawings (13 sheets) with a preliminary amendment requesting their entry.

On instant renewed petition, applicants submitted the omitted drawings and the preliminary amendment.

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be entered by the examiner in due course. Of course, the examiner is expected to review the specification to determine if it contains new matter. Further, the issue of a priority date of July 20, 1995 is not one at issue on petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of June 29, 2001**, using the application papers received in the Office on that date and the 13 sheets of informal drawings supplied on petition filed March 29, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAR 2 4 2008

FSP LLC
P.O. BOX 890
VANCOUVER WA 98666

In re Application of :
Schemmann, et al. :
Application No. 09/896,547 : DECISION
Filed: 29 June, 2001 :
Attorney Docket No. FSP0232 :

This is a decision on the petition filed on 9 January, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 18 July, 2007, with reply due under a non-extendable deadline on or before 18 October, 2007;
- the application went abandoned after midnight 18 October, 2007;
- the Office mailed the Notice of Abandonment on 13 December, 2007;

- on 29 November, 2007, Petitioner filed the instant petition with, *inter alia*, an averment of timely payment and instruction to charge necessary fees to Deposit Account 50-1691, however, Petitioner ignores the Notice of Insufficient Funds in the account, and deficit of at least $300.00 in the fees then due—thus, Petitioner fails to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of

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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).

[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] 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).

establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied showing requirement herein as discussed in the BACKGROUND, above—to wit: Petitioner ignores the Notice of Insufficient Funds in the account, and deficit of at least $300.00 in the fees then due—thus, Petitioner fails to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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

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

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

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

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate 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 was unintentional." (The statement is in the form available online.)

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

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

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Document Code: IMIS

Notice of Fee Due

Date: 10-18-07

Application Number: 09896547

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☐ Insufficient payment by check or money order.
- ☑ Insufficient funds in deposit account _____.
- ☐ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☐ No authorization to charge a deposit account.

Fee code(s) to be applied:	1504	$300
Amount in holding fee code:	1622	
	2622	
	1999	
Total remaining due from applicant:		$300

RAM Operator_____

Rev. 4/20/06

[redacted]sit Account Maintenance

Deposit Account Window Help

Deposit Account

Number: 501691 Current Balance: 198.00

Holder

Name: FSP LLC

Address

Attention: CHARLES MIRHO

Street: P.O. BOX 890

Province:

City: VANCOUVER

State: WA Postal Code: 98666

Country: US

Telephone: 360-737-1748 EXT 1 Fax:

Details

Category Code: NONGOVNMNT Type: REGULAR

Notification Amt: 0.00

Status: (•) Active ( ) Closed

Available Balance: -5,982.00

[✓] Print Monthly Statement

MGEBREM2 10/18/2007

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.
09/896,547	06/29/2001	Marcel F.C. Schemmann	FSP0232	8401

7590 12/13/2007

FSP LLC
P.O. BOX 890
VANCOUVER, WA 98666

EXAMINER	
SINGH, DALZID E	
ART UNIT	**PAPER NUMBER**
2613	
MAIL DATE	**DELIVERY MODE**
12/13/2007	PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of ____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
   (1) a timely filed amendment which places the application in condition for allowance;
   (2) a timely filed Notice of Appeal (with appeal fee);
   (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
   (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☒ The submitted fee of $ 1440 is insufficient. A balance of $ 300 is due.
   The issue fee required by 37 CFR 1.18 is $ 1440.
   The publication fee, if required by 37 CFR 1.18(d), is $ 300.
   (c) ☐ The issue fee and publication fee, if applicable, has not been recieved.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Trasmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

United States Patent and Trademark Office

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- Indicate the nature of your request by the type of fee you wish to pay: Patent Fee, Patent Maintenance Fee, Trademark Fee or Other Fee. Complete information for each type of fee as applicable to identify the nature of your request. Indicate only one type of fee per form.

- If you are requesting and paying a fee based on a previously filed patent or trademark application, indicate the application/serial number, patent number or registration number that is associated with your request. "Other Fee" is used to request copies of patent and trademark documents, certified copies, assignments, and other information products.

- IDON numbers are assigned by the USPTO for customers ordering patent and trademark information and products specified as "Other Fee" on the order form. If you have been assigned an IDON number from a previous customer order, include it with your request.

- For more information on USPTO fees and amounts, refer to the current fee schedule at www.uspto.gov (click on the "Site Index" link, "Fees, USPTO" link). To request a copy by mail, call the USPTO Contact Center at (800) 786-9199 or (571) 272-1000. Information on mailing addresses is also available at www.uspto.gov (click on the "Site Index" link, "Mailing Addresses" link).

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This Credit Card Payment Form (PTO-2038) is approved for use through 02/28/2009 under OMB Control Number 0651-0043. This collection of information is required by 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7. The information must be provided by a member of the public if he or she chooses to pay a USPTO fee by credit card. This information is also used by the USPTO to charge the appropriate fee amount to the appropriate credit card account. This collection is estimated to take two minutes to complete, including gathering and preparing information and submitting the Credit Card Payment Form (PTO-2038) to the USPTO. Time will vary depending upon the individual case. Please send any comments on the amount of time required to complete this form and/or suggestions for reducing the time burden to the Chief Information Officer, USPTO, PO Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. PLEASE REFER TO THE USPTO WEB SITE, UNDER THE "SITE INDEX" LINK, "MAILING ADDRESSES" LINK FOR THE CORRECT MAILING ADDRESS.

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with the request for information solicited on the Credit Card Payment Form (PTO-2038). Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the authority for the collection of this information is 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7; (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the USPTO is to charge the appropriate fee amount to the appropriate credit card account. If you do not furnish the requested information, the USPTO may not be able to charge the fee to the credit card or the credit card institution may refuse to accept the charge, either of which will result in the fee being treated as not having been paid.

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. § 552(a)). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.

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

(3) A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual 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 the 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 from this system of records may be disclosed, as a routine use, to the Administrator, General Services Administration (GSA), or his 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.

PTO-2038 (09-2006)
Approved for use through 02/28/2009. OMB 0651-0043
United States 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.

Credit Card Payment Form

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Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type:	☐ **Visa**	☐ **MasterCard**	☐ **American Express**	☐ **Discover**
Credit Card Account #:				
Credit Card Expiration Date:				
Name as it Appears on Credit Card:				
Payment Amount: $ (US Dollars):				
Cardholder Signature:			Date:	

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of $25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.
Service Charge: There is a $50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)) .

Credit Card Billing Address

Street Address 1:	
Street Address 2:	
City:	
State/Province:	Zip/Postal Code:
Country:	
Daytime Phone #:	Fax #:

Request and Payment Information

Description of Request and Payment Information:

☐ Patent Fee	☐ Patent Maintenance Fee	☐ Trademark Fee	☐ Other Fee
Application No.	Application No.	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No.		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form or submits this form electronically via EFS-Web, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

PTO/SB/64 (01-08)
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

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

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

I hereby certify that this correspondence is being:

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

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

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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P.O. BOX 890
VANCOUVER WA 98666

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SEP 02 2008

In re Application of :
Schemmann, et al. :
Application No. 09/896,547 : DECISION
Filed: 29 June, 2001 :
Attorney Docket No. FSP0232 :

This is a decision on the petition filed on 8 April, 2008, seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Applicant, failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 18 July, 2007, with reply due under a non-extendable deadline on or before 18 October, 2007.

The application went abandoned after midnight 18 October, 2007.

The Office mailed the Notice of Abandonment on 13 December, 2007.

On 29 November, 2007, Petitioner filed a petition with, *inter alia*, an averment of timely payment and instruction to charge necessary fees to Deposit Account 50-1691, however,

Petitioner ignored the Notice of Insufficient Funds in the account, and deficit of at least $300.00 in the fees then due—thus, Petitioner fails to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing. Thus, the petition was dismissed on 24 March, 2008.

Petitioner filed the instant petition on 8 April, 2008, with, inter alia, the authorization for fees due and made a statement of unintentional delay. (Note: The 8 April, 2008, IFW Miscellaneous Internal Document appears actually to be a copy of the 17 October, 2007, Office Notice now submitted by Petitioner and not a newly generated Office Notice.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

(Petitioners who are not of record at the time an application goes abandoned and who do not obtain the statement of the person responsible for the application at the time of abandonment (attorney/agent/applicant/assignee) are reminded that their assertion(s) as to the nature of a delay and/or that a delay is unintentional are construed to have been made in concert with the aforementioned duty to inquire and disclose, and must notify the Office if their appreciation of the nature of the delay is one other than unintentional, or if they previously have failed to satisfy their obligation under 37 C.F.R. §10.18(b) to inquire into the underlying facts and circumstances when providing statements to the Office in this matter.)

STATUTES, REGULATIONS

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).

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.[2],[3]

---

[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).

[2] 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).

[3] 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. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Publications Branch for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. 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.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

PAPER NO.

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Patent No. 6,944,555	:	LETTER REGARDING
Blackett, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: September 13, 2005	:	and
Application No. 09/896,570	:	NOTICE OF INTENT TO ISSUE
Filed: June 29, 2001	:	CERTIFICATE OF CORRECTION
Atty Docket No. 6270/64	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed September 15, 2005, notifying the Office of an error in patentees' favor in the determination of patent term adjustment.

The request for review of the determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA is corrected to **ONE HUNDRED SIX (106)** days.

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 one hundred six **(106)** days.

On September 13, 2005, the application matured into U.S. Patent No. 6,944,555, with a revised patent term adjustment of 119 days. On September 15, 2005, in response to the Patent Term Adjustment indicated on the patent, patentees submitted this request for review of patent term adjustment. Patentees explain that the filing date recorded for their Response to Notice to Correct Drawings was improperly recorded resulting in an incorrect calculation of 107 days of reduction in PTA.

Patentees' explanation is well taken. 37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months.

A review of the application record confirms that the Response to Notice to Correct Drawings was filed on March 30, 2005 (not May 30, 2005). Therefore the reduction period is from March 30, 2005 until the patent issued on September 13, 2005 (a period of 168 days). Thus, it is concluded that the reduction of 107 days is incorrect and should be corrected to the lesser period of four months (120 days).

In view thereof, the patent should have issued with a patent term adjustment of ONE HUNDRED SIX (106) days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR § 1.705(d). The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office.

The Certificate of Corrections Branch has been advised of this decision. The application file is, thereby, forwarded to the Certificate of Corrections 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 **ONE HUNDRED SIX (106)** 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 DRAFT Certificate of Correction

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Jian Li et al :
Application No. 09/896,656 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 884.494US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner (two months) in reply to the Notice Regarding Drawings mailed June 21, 2004. Accordingly, the above-identified application became abandoned on August 22, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This file is being forwarded to the Publishing Division to be reviewed by the drawing draftperson.

Irvin Dingle
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. 15

Jurgen K. Vollrath
588 Sutter Street #531
San Francisco, CA 94102

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APR 16 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Vashchenko :
Application No. 09/896,681 :
Filed: June 29, 2001 :
Attorney Docket No. 75292/12849 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 1, 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. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should be entitled "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2003. A Notice of Abandonment was mailed on March 18, 2004.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made, and
(4) include a copy of the docket record where the Office action would have been entered had it been received.

As to (2), petitioner has not explicitly stated that a search of the file jacket has been performed.

As to (3) and (4), petitioner has not discussed the docket records and has not supplied a copy of the records showing where the Office action would have been entered had it been received.

Petitioner should supply the above information. A copy of the prior Office action is attached so that petitioner may file a reply along with the request for reconsideration.

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
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Office action mailed May 28, 2003

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. 18

Jurgen K. Vollrath
588 Sutter Street #531
San Francisco, CA 94102

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of
Vashchenko
Application No. 09/896,681
Filed: June 29, 2001
Attorney Docket No. 75292/12849

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed June 8, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2003. A Notice of Abandonment was mailed on March 18, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The file is now being forwarded to Technology Center Art Unit 2815 for entry and consideration of the amendment filed June 8, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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
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Paper No. 4

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of : DECISION GRANTING
Dean S. Nelson et al : PETITION
Application No. 09/896,711 :
Filed: June 28, 2001 :
Attorney Docket No. 10002406-1 :

This is a decision on the paper styled "Request For Correction Of Filing Receipt" filed September 12, 2001, requesting that the above-identified application be accorded a filing date of June 28, 2001, rather than the presently accorded filing date of June 29, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 28, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicant provides a copy of the receipt for Express Mail label No. EL737389543US. The same Express Mail number was referred to in the copy of the original transmittal letter found in the present application. It is noted that while the "date-in" on the copy of the Express Mail receipt is not legible, it includes a "Meridian ID USPS" receipt stamp dated "June 28, 2001".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on June 28, 2001.

The petition is granted. A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2152 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

CORPORATE PATENT COUNSEL
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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OFFICE OF PETITIONS

In re Application of
Marcel F.C. Schemmann et al
Application No. 09/896,761
Filed: July 2, 2001
Attorney Docket No. US010310

DECISION DISMISSING PETITION

This is a decision on the letter filed September 20, 2001, requesting that the above-identified application be accorded a filing date of June 29, 2001, rather than the presently accorded filing date of July 2, 2001. The letter is accompanied by a copy of the original transmittal letter found in the file which includes a statemeent of express mailing date June 29, 2001. Accordingly, the letter is being construed as a petition under 37 CFR 1.10.

37 CFR 1.10(a) states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

37 CFR 1.10(c) states that:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail"

mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

As clearly stated in 37 CFR 1.10(a), the date of deposit with the United States Postal Service (USPS) is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. Thus, any petition alleging that the PTO did not accord a paper the date of deposit in Express Mail service as the filing date must be accompanied by "a true copy of the 'Express Mail' mailing label showing the 'date-in,' and of any other official notation by the USPS relied upon to show the date of deposit." 37 CFR 1.10(c)(3).

The present petition is not accompanied by the evidence required by 37 CFR 1.10.

Accordingly, the petition is dismissed.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed August 22, 2001 with the presently accorded filing date of July 2, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 18 2004

In re Application of	:	
Jeng H. Hwang	:	NOTICE OF WITHDRAWAL
Serial No. 09/896,786	:	FROM ISSUE
Filed: June 29, 2001	:	UNDER 37 CFR 1.313(b)
For: METHOD FOR ALLOWING A STABLE	:	
POWER TRANSMISSION INTO A PLASMA	:	
PROCESSING CHAMBER	:	

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 at Gregory Mills (703) 308-1633.

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

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALBIHNS STOCKHOLM AB
BOX 5581, LINNEGATAN 2
SE-114 85 STOCKHOLM; SWEDEN
STOCKHOLM SE SWEDEN

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Anders Berkenstam, et. al. :
Application No. 09/896,791 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 76272 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 14, 2005, to revive the above-identified application.

In response to the final Office action mailed August 23, 2004, petitioner hereby submits an authorization to charge $750 for the petition to revive fee, an amendment, and the statement of unintentional delay.

As authorized, the above petition fee has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being referred to Technology Center Art Unit 1642, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

ALBIHNS STOCKHOLM AB
BOX 5581, LINNEGATAN 2
SE-114 85 STOCKHOLM; SWEDENN
STOCKHOLM SE SWEDEN

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SEP 20 2006

Director's Office
Office of Patent Publication

In re Application of :
Berkenstam Anders et al :
Application No. 09/896,791 : **DECISION ON PETITION**
Filed: June 29, 2001 :
Attorney Docket No. 76272 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on April 19, 2006, under 37 CFR 1.181.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed September 6, 2005. The Notice of Abandonment, mailed on April 6, 2006 indicates, "The submitted fee of $300.00 is insufficient. A balance of $1,400 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on December 2, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-1249. On December 2 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 153.

Cheryl Mcleod
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BOX 5581, LINNEGATAN 2
SE-114 85 STOCKHOLM; SWEDENn
STOCKHOLM SE SWEDEN

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Anders Berkenstam, et al. :
Application No. 09/896,791 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 76272 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 13, 2006.

This application became abandoned for failure to timely pay the issue fees on or before December 6, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed September 6, 2005. Accordingly, the date of abandonment of this application is December 7, 2005. A Notice of Abandonment was mailed on April 6, 2006. In response, on November 13, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of the requisite issue fees; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is GRANTED.

The application is being referred to the Office of Publications to be processed into a patent.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Todd E. Garabedian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Dr. Garabedian desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone 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

cc: TODD E. GARABEDIAN, PH. D.
WIGGIN AND DANA LLP
ONE CENTURY TOWER
265 CHURCH STREET
NEW HAVEN, CT 06508-1832

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of
Hans Leysieffer et al.
Application No. 09/896,836
Filed: July 2, 2001
Attorney Docket No. 22409-00120-US

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed November 5, 2008.

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 JoAnne Burke at (571) 272-4594.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAY 13 2008

OFFICE OF PETITIONS

In re Patent No. 6,933,279 :
Issue Date: August 23, 2005 :
Application No. 09/896,841 : NOTICE
Filed: June 29, 2001 :
Attorney Docket No. 407T-911210US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BEYER WEAVER, LLP
500 12TH STREET, SUITE 200
OAKLAND, CA 94607

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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN, NJ 07962-2245

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MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Haigh et al. :
Application No. 09/896,846 : Decision on Petition
Filed: June 29, 2001 :
Attorney Docket No. 1100.1125101 (H16-26486) :

This a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 3, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 4, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2654 will be informed the application has been revived and the examiner will further consider the application in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503
P.O. BOX 12195
REASEARCH TRIANGLE PARK, NC 27709

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
John R. McGarvey :
Application No. 09/896,851 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 5577-237 (RSW920010046US1 :

This is a decision on the petition filed May 18, 2007 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 and Publication fee in a timely manner in reply to the Notice of Allowance mailed November 28, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the 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 Publishing Division 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. 11

ENZO Biochem Inc.
527 Madison Avenue, 9th Floor
New York, NY 10022

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of :
Elazar Rabani et al. :
Application No. 09/896,897 : ON PETITION
Filed: June 30, 2001 :
Attorney Docket No. Enz-60 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 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 December 13, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 13 2006

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

In re Application of
Elazar Rabani, et al.
Application No. 09/896,897
Filed: June 30, 2001
Attorney Docket No. Enz-60

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 2, 2005, which set a shortened statutory period for reply of three (3) months. A three-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed October 12, 2005 indicating that the reply filed on September 2, 2005 failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on September 2, 2005.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 37 CFR 1.137(b) has been made of record and small entity status has been accorded.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $750; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1637 for further processing.

Retta Williams

Retta Williams
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.

ENZO BIOCHEM, INC.
527 MADISON AVENUE
(9th FLOOR)
NEW YORK NY 10022

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JUN 05 2009

OFFICE OF PETITIONS

In re Application of :
Rabani et al. :
Application No. 09/896,897 :
Filed: June 30, 2001 :
Attorney Docket No. Enz-60 :

This is in response to the papers filed December 31, 2008, in the above-identified application, namely, 1) the PETITION UNDER 37 C.F.R. 1.182 FOR EXPEDITED CONSIDERATION OF REQUESTS TO VACATE ORDER TO SHOW CAUSE AND TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC RECORDS, 2) the REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181, and 3) the REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED.

The Petition Under 37 CFR 1.182 for Expedited Consideration of Petition to Expunge Confidential Information concerning this Application from Public Records is **GRANTED**.

The Petition Under 37 CFR 1.182 for Expedited Consideration of Request to Vacate Order to Show Cause is **DENIED**.

The Request to Expunge Confidential Information is **GRANTED to the extent indicated herein**.

The Request to Vacate Order to Show Cause is **DISMISSED**.

Applicants are given **TWO MONTHS** from the mail date of this decision to provide the information requested in response, or otherwise respond, to the Order to Show Cause. This period is not extendable under 37 CFR 1.136(a).

BACKGROUND

On June 30, 2008, the Office issued an Order to Show Cause why the decisions mailed February 19, 2003 and February 13, 2006 in the above-identified application reviving the application should not be vacated. Considering a pattern of abandonment and revival in multiple applications, the Order required *inter alia* further information as to i) the cause of any delay between the date the application became abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, ii) the cause of any delay between the date the applicant was first notified that the application was abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, and iii) how these delays were "unintentional." The Order specifically required explanation of the docketing system used for recording due dates for response to an Office communication and how it operated, and copies of relevant docket entries. The Order set a two-month period for response with extensions of time obtainable under 37 CFR 1.136(a).

In response, applicants filed the above-described papers. Pursuant to applicants' authorization, the extension of time fee[1] necessary to consider applicants' responses timely filed is being charged to Deposit Account No. 50-0206. It is noted that the papers filed in response did not include an explanation of the docketing system or copies of docketing records. This decision considers each of the papers, in turn, as follows: First, consideration will turn to applicants' Petition for Expedited Consideration. Then, the decision will respond to applicants' Request to Expunge Confidential Applications from the Order. Finally, the decision will address applicants' Request to Vacate the Order to Show Cause.

ON PETITION UNDER 37 C.F.R. 1.182
FOR EXPEDITED CONSIDERATION OF
REQUESTS TO VACATE ORDER TO SHOW CAUSE
AND TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC RECORDS

On December 31, 2008, applicants filed the petition under 37 CFR 1.182 for expedited consideration of their REQUESTS TO VACATE

---

[1] The two-month period for response to the Order mailed June 30, 2008 ended on August 30, 2008. To make the responses filed December 31, 2008 timely, an extension of time for response within the fifth month ($2,350) to extend the period to January 30, 2009 has been charged.

ORDER TO SHOW CAUSE and TO EXPUNGE CONFIDENTIAL INFORMATION FROM PUBLIC RECORDS, also filed December 31, 2008.

The Petition to Expedite consideration of Petition to Expunge Confidential Information concerning this Application from Public Records is **GRANTED**.

The Petition to Expedite consideration of Request to Vacate Order to Show Cause is **DENIED**.

Applicants request expedited consideration of their Request to Expunge in order to restore confidentiality and to maintain in confidence all information concerning the above-referenced application. Applicants allege that the Office's inclusion of confidential information concerning this application in the Order to Show Cause by placement of the Order in at least one patented file is a direct violation of the statute, 35 U.S.C. 122(a), and the regulation, 37 C.F.R. § 1.14(a). Applicants request that the Office expedite consideration of their Request to Vacate the Order to Show Cause on the basis that if it is ultimately granted such a decision would alleviate any further expenditure of applicants' time and resources in preparing responses to any vacated Orders to Show Cause. Furthermore, while acknowledging that the Petitions to Expedite are properly considered pursuant to 37 CFR 1.182, applicants maintains that the required fee for such consideration should not be required as the inclusion in the Order to Show Cause of confidential information concerning this application was a mistake on the part of the Office, as was the entire act of issuing the Order to Show Cause.

Preliminarily, the issue of payment of the required petition fee must be addressed. Payment of a fee of $400 is required for consideration on the merits of a petition pursuant to 37 CFR 1.182. As acknowledged by applicants, a Petition to Expedite is a petition pursuant to 37 CFR 1.182. Nonetheless, there is merit to an argument that no fee should be required to expedite consideration of a petition requiring, if granted, prompt removal of confidential information issued in error by the Office. By rule, the Office does not require payment of a fee to advance consideration of the examination of applications where the Office has determined that such expedited consideration is warranted. See 37 CFR 1.102(c). In addition, the Office by practice does not require a fee for immediate action on a petition to withdraw an application from issuance

given that a delay in acting on such a petition would render the relief meaningless (e.g. the application would have issued as a patent before the petition to withdraw from issue could be granted). The justifications for not paying a fee for expedited consideration of a petition to expunge confidential information based upon an action of the USPTO are equally persuasive. First, there is a compelling public interest in the Patent and Trademark Office keeping in confidence confidential application information and thus, in addressing any allegation that they have not. Second, it is warranted that an applicant file a petition to expedite with respect to alleged disclosure of confidential information to draw attention to a petition alleging such violation and to effectuate any remedial action. Absent the filing of such a petition, the Office may not become aware of the issue presented until the petition on the merits is considered in turn and the confidential information has been open to the public. On its face, the Petition to Expedite consideration of the Petition to Expunge Confidential Information warrants consideration without a fee.

However, applicants also request expedited consideration of the Request to Vacate the Order to Show Cause. The Office is not of the opinion that the Orders to Show Cause were issued by mistake. Applicants submits no persuasive argument, nor does the Office find any compelling reason, to waive the fee required for consideration of the petition to expedite consideration of the Request to Vacate the Order to Show Cause. Accordingly, the $400 fee is required and will not be waived. The petition fee has been charged to the Deposit Account, as authorized.

Consideration now turns to the merits of the petitions to expedite. A petition to expedite a decision on a petition is treated as a request that upon making a showing justifying such action the Office take up for consideration a petition out of turn.

Applicants' basis for requesting expedited consideration of the Request to Expunge Confidential Information is to ensure fulfillment of the statutory requirement that the Office preserve in confidence patent applications. Failure to act on such a Request leaves a question as to whether confidential information has been made available to the public. Such justifications warrant that the Office consider the Request to Expunge Confidential Information out of turn.

However, the mere fact that applicants have to expend resources to respond to the Orders to Show Cause does not justify considering the Request to Vacate out of turn. The argument that the Order was issued in error is an argument on the merits of the Order to Show Cause, and is properly presented in a response on the merits to the Order. Even if a decision on the Order to Show Cause were ultimately issued in favor of applicants, this does not warrant consideration of their Request out of turn. Their articulated interest in alleviating expenditure of time and resources in preparing a response is no more compelling than the interest of any other applicant awaiting action by the Office.

In view thereof, this decision also addresses the Petition to Expunge Confidential Information.

Nonetheless, as the application is before the reviewing attorney for consideration of the Petition to Expunge, the Request to Vacate the Order to Show Cause will also be addressed.

ON REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181

On December 31, 2008, applicants filed a REQUEST TO EXPUNGE CONFIDENTIAL APPLICATIONS FROM ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181.

The Request is **GRANTED to the extent indicated herein**. The Order will not be rescinded; however, a substitute redacted Order will be issued.

Applicants maintain that under 37 C.F.R. § 1.14, an unpublished application, as here, whether pending or abandoned, is maintained confidential unless it is relied upon for priority purposes by a published application or patent, a circumstance not present here. Applicants assert that information concerning this non-published and non-patented application has improperly been included in the publicly available Orders to Show Cause, contrary to 37 C.F.R. § 1.14(a). Specifically, applicants allege that the Office's inclusion of confidential information concerning this application in the Order to Show Cause by placement of the Order in at least one patented file is a direct violation of the statute, 35 U.S.C. 122(a), and the regulation, 37 C.F.R. § 1.14(a). Applicants request that all currently

issued Orders to Show Cause be expunged from the public eye. Applicants further ask that the Order be reissued to remove from (1) the caption, (2) both tables, and (3) the body of the Order reference to this confidential application. Applicants further request that any discussion of the confidential application be removed from the reissued Orders.

Applicants' arguments have been considered, but not found wholly persuasive. The Order to Show Cause mailed June 30, 2008, identified this application and discussed its prior abandoned status, and identified published and non-published patent applications and patents in the header/caption, in a table and in the text of the body of the Order and discussed their prior abandoned status. However, the identification and discussion of these other applications did not abridge the confidentiality of this unpublished application in violation of the statute. The contents of this application were kept in confidence, while as allowed by the statute information regarding the previous abandoned status was given under such special circumstances as determined by the Director. The statute, 35 U.S.C. 122, states that:

> Except as provided in subsection (b)[2], applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

With respect to such unpublished applications, the implementing regulation, 37 CFR 1.14, provides:

> Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

All papers relating to the file of: A published application; a patent; or a statutory invention registration are open to inspection by the public, and copies may be obtained upon the

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[2] It is noted that subsection (b) provides for the publication of applications. As noted by applicants, the instant application is not published.

payment of the fee set forth in § 1.19(b)(2). However, the public may not have access to an unpublished pending application, unless the application is otherwise identified in a patented or published application[3].

Thus, applicants are correct that the public may have access to the files of any published or patented applications that contain the Order to Show Cause. However, the fact that the Order identifies this application does not give the public the access suggested by applicants. The application contents remain preserved in confidence. With respect to public access, applicants do not acknowledge a significant distinction in the access to an unpublished pending application identified in the file contents of another application but not in the published patent application or the patent itself. Pursuant to 37 CFR 1.14(a),(vi), where an unpublished pending application is otherwise identified *in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2)*, a copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)). However, if an application is identified *in the file contents of another application, but not the published patent application or patent itself*, a granted petition for access (see paragraph (h)) or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application. (It is noted that an application is considered to have been identified in a document, such as a patent, when the application number or serial number and filing date, first named inventor, title and filing date or other application specific information are provided in the text of the patent, but not when the same identification is made in a paper in the file contents of the patent and is not included in the printed patent). Furthermore, a power to inspect is only granted by delegation from a party with access and a petition for access is only granted upon a showing that access to the application is necessary to carry out an Act of Congress or that special circumstances exist which warrant applicants being granted access to all or part of the application. Thus, the mere reference to this pending unpublished application does not

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[3] or subject of a benefit claim or the application is incorporated by reference.

give the public such access to the contents of this application to consider its confidentiality breached.

Finally, the statute is not absolute. The statute allows for information concerning a confidential application to be given in such special circumstances as may be determined by the Director. In this instance, special circumstances existed that required some reference to the previously abandoned status (and subsequent revival) of specifically identified applications, including this unpublished pending application. Specifically, the basis for the Order to Show Cause and the information requested in the Order related to the exact dates and periods of abandonment of this application in conjunction with the exact dates and periods of abandonment of several other applications. Accordingly, this limited information had to be stated in order to effectuate the Order and to identify for Enzo the exact questions raised by the Order.

This purpose having been served, the Order will not be rescinded; however, the Order will be expunged to the degree permitted by the image file wrapper system. As such, the document will remain closed[4] in the image file wrapper and thus, will not be available to the public (and will be replaced in the paper files). A substitute redacted Order will be issued. Applicants are required to maintain a copy of the Order as originally issued in each application/patent.

ON REQUEST
TO VACATE ORDER TO SHOW CAUSE
WHY DECISION REVIVING THIS APPLICATION
SHOULD NOT BE VACATED

On December 31, 2008, applicants filed the REQUEST TO VACATE ORDER TO SHOW CAUSE WHY DECISION REVIVING THIS APPLICATION SHOULD NOT BE VACATED.

[4] Pending a decision on this petition, the Orders were closed in the Image File Wrapper of the electronically-maintained applications and the paper files containing Orders were retained in the custody of the reviewing attorney.

BACKGROUND

The above-identified application was filed on June 30, 2001. This application became abandoned on three occasions.

This application first became abandoned on December 13, 2001 for failure to reply to the Notice to File Missing Parts of Application mailed October 12, 2001. This Notice set a two-month time limit for reply, with extensions of time up to 5 months obtainable. Applicants did not file a response or an extension of time by May 12, 2002. On June 28, 2002, applicants filed a petition to revive. By decision mailed February 19, 2003, the petition was granted.

The application again became abandoned on September 3, 2005 for failure to file a proper reply to the final Office action mailed March 2, 2005. This Office action set a three-month period for reply. Applicants filed a three-month extension of time, but did not file a reply. A notice of abandonment was mailed on November 15, 2005. On November 29, 2005, applicants filed a petition to revive. By decision mailed February 13, 2006, the petition was granted.

This application became abandoned for a third time for failure to file an appeal brief. A Notice of Abandonment was mailed on October 12, 2006. No petition to revive (or to withdraw the holding of abandonment) has been filed. This application presently stands abandoned in favor of continuation application No. 11/403,117 filed April 12, 2006. The continuation application is presently pending before the Office.

On June 30, 2008, the Office issued an Order to Show Cause why the decisions mailed February 19, 2003 and February 13, 2006 in the above-identified application reviving the application should not be vacated. Considering a pattern of abandonment and revival in multiple applications, the Order required *inter alia* further information as to i) the cause of any delay between the date the application became abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, ii) the cause of any delay between the date the applicant was first notified that the application was abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, and iii) how these delays were "unintentional." The Order specifically required explanation of the docketing system used for recording due dates for response to an Office communication and how it operated, and copies of

relevant docket entries. The Order set a two-month period for response with extensions of time obtainable under 37 CFR 1.136(a).

Applicants do not question the Office's jurisdiction to issue this Order in this abandoned application. Rather, applicants assert that i) the USPTO is applying the wrong standard for petitions to revive filed in 2002 and 2005, and ii) that the Order issued well over two years after the USPTO's grant of Enzo's last petition is unreasonable.

The Order to Show Cause sets forth the proper standard under 37 CFR 1.137(b)

First, applicants assert that the Office is applying the wrong standard on the basis that the USPTO erroneously asserts that Enzo was required to "show 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. Applicants argue that Enzo was only required under 37 C.F.R. § 1.137(b) to state that the delay was unintentional, which it did. Enzo notes that the requirement of a "showing" is imposed for petitions under 37 CFR 1.137(a) only.

Applicants' assertion that the Office erred in referring to a required showing under 37 CFR 1.137(b) is unavailing. The Office stated that "during all periods relevant to the decisions on petition in the above-identified applications, Enzo was required to show that 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 this statement is correct. Applicants make an inconsequential distinction between the "showing" required of 37 CFR 1.137(a) and the statement required of 37 CFR 1.137(b). The words "showing" and "statement" are used interchangeably by the Office.[5] In the context of 37 CFR 1.137(b), the statement may suffice as the showing. Regardless, a focus on the use of the word "show" in one sentence ignores the several pages of the

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[5] For example, with respect to the requirements of 37 CFR 1.47(b), MPEP 409.03(g) states that "Irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." Therein, showing and statement are used interchangeably. Moreover, a review of MPEP 711.03(c) would reveal that the Office uses the word "showing" in connection with unintentional delay and unavoidable delay.

Order which set forth what the rule requires and addresses why the Office has deemed applicants' statement of unintentional delay to now be in question.

Moreover, the distinction drawn by applicants erroneously suggests that it is sufficient for applicant to state that the "entire delay was … unintentional" and that this statement requirement does not reflect a burden on applicant to verify that the entire delay was unintentional when so questioned. This conclusion ignores the fact that the Office only has authority to revive an abandoned application where the delay was "unintentional" or "unavoidable." In both instances, the burden of proof is on applicants. This burden is lessened, but not eliminated, under 37 CFR 1.137(b) inasmuch as the statement generally suffices to satisfy the requirement of unintentional delay. In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are allowed to state that "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," rather than to provide a detailed statement of facts showing that the entire delay was unintentional. The statement is found sufficient for this purpose because applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. As the burden of proof is on applicants, the Office remains able to ask additional questions if the statement alone is not deemed sufficient.

More importantly, semantics aside, the point made in the Order is that applicants in order to meet the requirements of 37 CFR 1.137(b) had to have properly made the required statement of unintentional delay. Implicit in this statement is that the actual circumstances of the abandonment of the application if presented in detail to the Office would support a conclusion that the entire delay from the due date for the reply until the filing of a grantable petition was unintentional. This statement is not properly made if it is not supported by the actual circumstances of the application. The Office will not question the statement unless something in the record raises a question as to the accuracy of the statement. In this particular instance, the Office did not have cause in each individual case to question the sufficiency or accuracy of the statement. Presently, given the pattern of abandonments and

revivals, the Office does have cause to question the statement of unintentional delay.

Secondly, applicants assert that the Office is applying the wrong standard on the basis that the MPEP in effect in 2002 and 2005 made clear that a petition under 37 CFR 1.137(b) would generally be granted and the Office has provided no evidence that the delay herein was intentional. Applicants maintain that the Order is not supported.

It is true that the Office generally grants petitions under 37 CFR 1.137(b), especially when the petition as in the instances in this case are filed within a year of the abandonment of the application. However, this does not mean that the Office must always grant petitions with the required statement. Rather, it is well-established that:

> While the Office will generally require only the statement that the entire delay in providing 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 Office may require an applicant to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b) where there is a question whether the entire delay was unintentional. See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989).

Further, even in 2002 and 2005, the rule, providing for revival based on unintentional delay, stated that the Director may require additional information where there is a question whether the delay was unintentional. As such, a grant under the unintentional standard was not and currently remains not a sure thing.

Moreover, applicants wrongly suggest that the Office must provide evidence that the delay was intentional. Rather, the Office should articulate a basis for their conclusion that there is a question whether the entire delay was unintentional. The burden is not on the Office to provide evidence that the delay was intentional. Applicants carry the burden of proof to establish that the "entire" delay was "unintentional." See In re Application of G, supra.

Finally, the Order to Show Cause is supported. The Order is based on the patterns of abandonment and revival detailed in the tables and text of the Order. Applicants argue that the purported pattern referenced in the Order relates to abandonments and revivals in *other* applications and this information has nothing whatsoever to do with this application or whether its delay was intentional. This argument is without merit. The other applications are not random applications, but applications owned by and prosecuted on behalf of Enzo. The decisions to reply or not to reply, to file petitions to revive or not to file petitions to revive, were made by Enzo in these applications. The abandonment of an application is not a routine matter. Furthermore, the fact alone that Enzo on a regular basis had applications become abandoned and then revived is significant. Moreover, as stated in the Order, when looking at this pattern and seeing that many applications were revived just days short of the one year deadline, questions were raised. The pattern raises a question as to whether the delay in filing a reply or the delay in filing petitions was unintentional, as stated by applicants. The pattern raises questions as to the validity of all statements of unintentional delay ever made by or on behalf of Enzo. The Office has determined that the conclusion that applicants previously met their burden with their statements of unintentional delay may be incorrect. Accordingly the Office issued the Orders to Show Cause Why the Decision Reviving This Application Should Not be Vacated.

It is noted that applicants in response to this Order have not provided the additional information requested to answer the Office's questions. Applicants have reiterated the limited statements made on petition to revive. Applicants have not provided new statements or docketing records as requested.

The Issuance of the Order to Show Cause is not unreasonable

Finally, applicants argue that the Order issued well over two years after the Office's grant of Enzo's last petition is unreasonable. This period of time is not unreasonable. With respect to this application, this matter is current. After this application was revived by decisions mailed February 19, 2003 and February 13, 2006, it again became abandoned. Instead of filing an appeal brief, following the decision of February 13, 2006 as required to avoid abandonment, applicants filed a continuation application. This application was abandoned in

favor of a continuation application filed April 12, 2006. The continuation application is currently pending before the Office. The Office has the authority to require information reasonably necessary to treatment of a matter in an application.

It is unfortunate that the Office did not recognize this pattern sooner. However, this delay by the Office has to be considered in light of applicants' action. The question being should the revival of applicants' application be sustained where applicants engaged in a pattern of what appears to be intentionally abandoning or intentionally delaying the filing of petitions to revive.

CONCLUSION

The Order was properly issued. The response received does not include the additional information, including docketing records, requested by the Order.

Applicants are given a two (2) month extendable period under 37 CFR 1.136(a) to complete their response to the Order to Show Cause. Applicants should note that a future reply that is incomplete will be treated as non-responsive and additional time will not be given to complete the reply.

Telephone inquiries regarding this decision may be directed to Senior Petitions Attorney Nancy Johnson at 571-272-3219.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

MAILED
JUN 08 2009
OFFICE OF PETITIONS

MAILED
JUN 08 2009
OFFICE OF PETITIONS

In re Application of	:	
Rabbani et al.	:	ORDER TO SHOW CAUSE
Application No. 09/896,897	:	WHY DECISION REVIVING
Filed: June 30, 2001	:	APPLICATIONS SHOULD NOT BE
Atty Docket No. Enz-60	:	VACATED

This is an Order to Show Cause why the decisions mailed February 19, 2003 and February 13, 2006 in application No. 09/896,897 reviving the application should not be vacated.

Applicants are given **TWO MONTHS** from the mailing date of this Order to respond. This period is not extendable. A response must be filed in each of the subject applications for which applicant seeks relief from this Order. See 37 CFR 1.4(d).

FACTS

The ENZO applications at issue became abandoned at the end of the shortened statutory periods for failure to file responses to outstanding Office actions. No petitions for extensions of time for response were filed in any of the applications. Notices of Abandonment were mailed in each application. Enzo later filed petitions to revive that were granted. The following tables set forth the relevant ENZO applications, by application number, mailing date of Office action, date of abandonment, mailing date of notice of abandonment, date of filing of petition to revive, and date of mailing of decision granting petition to revive. The data is arranged in chronological order according to the date a petition to revive was filed starting with the earliest date, 23 December 1992, and ending with the latest date, 29 November 2005.

Application Number	Office Action Mailed	Abandoned[1]	Notice of Abandon	Petition Filed	Decision Date
	26-Sep-91	26-Dec-91	05-May-92	23-Dec-92	29-Jan-93
	13-Apr-92	13-Jul-92	16-Nov-92	15-Jan-93	12-Feb-93
	01-Mar-93	01-Jun-93	01-Oct-93	16-Nov-93	10-May-94
	04-Nov-93	04-Feb-94	09-Jun-94	03-Feb-95	20-Mar-95
	08-Sep-94	08-Dec-94	17 -Apr-95	07-Jun-95	17-Jun-96
	31-Oct-95	30-Nov-95	12-Jun-96	01-Oct-96	26-Nov-96
	28-Dec-95	28-Mar-96	22-Jul-96	28-Mar-97	09-Jul-97
	28-Feb-96	28-May-96	27 -Sep-96	29-May-97	14-Jul-97
	04-Apr-96	04-Jul-96	14-Nov-96	03-Jul-97	17-Nov-98
	25-Nov-96	25-Feb-97	23-Jun-97	25-Nov-97	09-Feb-98
	27-Nov-96	27-Feb-97	21-Jul-97	26-Nov-97	24-Feb-98
	09-Apr-97	09-Jul-97	12-Nov-97	03-Feb-98	15-Apr-98
	26-Nov-97	26-Feb-98	17 -Jul-98	20-Nov-98	06-Jul-99
	05-Sep-98	05-Sep-98	15-Dec-98	15-Mar-99	01-Jun-99
	07-Jul-98	07 -Oct-98	02-Mar-99	02-Jun-99	21-Jun-99
	13-Apr-99	13-Jul-99	23-Nov-99	23-Feb-00	19-Jul-00
	04-Oct-00	04-Nov-00	25-Apr-01	26-Jul-01	09-Aug-01
	12-Sep-00	12-Dec-00	26-Mar-01	12-Dec-01	04-Jun-02
	06-Dec-00	06-Mar-01	28-Aug-01	06-Mar-02	26-Mar-02
	28-Feb-01	28-May-01	23-Oct-01	28-May-02	27-Sep-02
	13-Mar-01	13-Jun-01	05-Nov-01	13-Jun-02	31-Jul-02
	02-Oct-01	02-Jan-02	05-Jun-02	02-Jan-03	24-Jan-03
	18-Jun-02	18-Sep-02	08-Apr-03	06-Aug-03	27-Jul-04
	20-May-02	20-Aug-02	08-Jan-03	20-Aug-03	07-Dec-04
	06-Dec-02	06-Mar-03	23-Sep-03	20-Nov-03	11-Apr-06
	22-Apr-03	22-Jul-03	16-Dec-03	08-Dec-03	07-May-04
	12-Feb-04	12-May-04	28-Oct-04	04-Nov-04	28-Jan-05
09896897	02-Mar-05	02-Jun-05	15-Nov-05	29-Nov-05	13-Feb-06

* It is noted that no Order to Show Cause has been issued in some of the applications listed in the table. These applications are currently abandoned. Further, Office records support a conclusion that there are no claims for the benefit of priority to these applications. Thus, the Office has concluded that it is unnecessary to issue an Order to Show Cause in these applications.

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[1] These applications went abandoned for failure to respond to an outstanding Office action within the shortened statutory period for reply. The dates set forth in the table reflect the ending date of the shortened statutory period set forth in the Office action. If the Office action was a Non-final or Final rejection then the shortened statutory period is three (3) months. However, if the Office action was a restriction requirement or a notice to comply with 37 CFR 1.821 et seq., the shortened statutory period is one (1) month or 30 days, whichever is longer. No extensions of time for response were filed.

Each petition to revive included payment of the petition fee, a proposed response[2] and a statement of unintentional delay. Many cases included statements by attorney Ronald Fedus, Corporate Counsel for Enzo, such as that "the delay in taking action was unintentional." In some cases, attorney Fedus noted that the petition was being made within one year of the date of abandonment pursuant to 37 CFR 1.137(b).

During all periods relevant to the decisions on petition in the above-identified applications, Enzo was required to show that 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. Further, the Director could require additional information where there was a question whether the delay was unintentional. The decisions granting the petitions were based on the statement of unintentional delay, that the "delay in taking action was unintentional" or otherwise, that "the entire delay in filing the required reply from the due date for the reply to the date of filing of a grantable petition was unintentional." When the language of the statement varied from that required under 37 CFR 1.137(b), the petitions examiner specifically noted that the statement presented (the "abandonment was unintentional") did not comply with 37 CFR 1.137(b), as is Office practice. For example, in one application, the petitions examiner stated that the statement was accepted as meaning that the "delay was unintentional." Petitioner was advised to provide a statement to that effect if the Office's interpretation was incorrect. Further, petitioner was reminded that:

> 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 under 37 CFR 1.137(b) was unintentional.

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[2] 37 CFR 1.137(c) applies to the reply requirement for petitions under 37 CFR 1.137(a) and (b). In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination (RCE) in compliance with 37 CFR 1.114.

BASIS FOR ORDER

It is well established that an applicant is expected to exercise diligence throughout the prosecution of their application. By statute, 35 U.S.C. 133, 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, the application will be regarded as abandoned. This requirement of diligence extends to the requirement to take action upon becoming aware that the application has become abandoned.

For a decision granting revival based on unintentional delay to be proper, the statement that the delay was unintentional must be appropriately made. The Patent and Trademark Office does not have authority to revive *intentionally* abandoned applications. The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director (formerly Commissioner) to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that 35 U.S.C. § 41(a)(7) grants the Office more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances. However, that discretion is not boundless:

> "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71.

The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation. Likewise, the revival of an abandoned application based on an inappropriately made statement that the abandonment was unintentional is contrary to the meaning and intent of the statute and regulation.

In a situation where an application has been abandoned for less than a year and there is no reason to believe that the abandonment was intentional (e.g., an express abandonment letter in the record), a description of the circumstances surrounding the abandonment may be provided but is not required. A mere

statement by a proper party that the abandonment was unintentional is all that is required.

A statement made by a proper party (i.e. the party (or a registered practitioner on their behalf)) having the right or authority to reply (or not to reply) to avoid abandonment is generally accepted as appropriately made. This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when this statement is provided to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See *Lumenyte Int 'l Corp. v. Cable Lite Corp.*, Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional). For these reasons, the Office generally relies upon the applicant's duty of candor and good faith and accepts the statement that the abandonment was unintentional without requiring further information.

In each of the Enzo applications, attorney Fedus' or another practitioner's statement was accepted on the basis of their duty of candor and good faith as a registered practitioner to inquire into the underlying facts and circumstances of the abandonment when making a statement that the delay in taking action was unintentional. However, in each instance, applicant was directly advised by the petitions examiner or put on notice by the Office via the Manual of Patent Examination Policy (MPEP) that "[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 under 37 CFR 1.137(b) was unintentional." See MPEP 711.03(c).

As further provided in MPEP 711.03(c):

> The abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See *Application of G*, 11 USPQ2d at 1380. Likewise, where

> the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

> (A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
> (B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
> (C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
> (D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
> (E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Moreover, an intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

> (A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;

(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

The Office may require an applicant to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 1.137(b) where there is a question whether the entire delay was unintentional. See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Applicants' failure to carry the burden of proof to establish that the "entire" delay was "unintentional" may lead to the denial of the petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

The question has now arisen as to whether the statements were appropriately made under the circumstances of the abandonment of these applications. To have been appropriately made, the statement of unintentional delay had to have supported a conclusion that the delay in filing a response and the delay in filing a petition were unintentional. The statement of unintentional delay is not appropriate where any of the delays are intentional.

The following table sets forth the number of days in delay from the date of abandonment of the application to the date the petition was filed (col. 5) and the number of days in delay from the date of the mailing of the notice of abandonment to the date of filing of the petition (col. 6).

Application Number	Abandoned	Notice of Abandon	Petition Filed	Days After Abandoned	Days After Notice
	13-Jul-92	16-Nov-92	15-Jan-93	186	60
	26-Dec-91	05-May-92	23-Dec-92	363	232
	01-Jun-93	01-0ct-93	16-Nov-93	168	46
	08-Dec-94	17-Apr-95	07-Jun95	181	51
	04-Feb-94	09-Jun-94	03-Feb-95	364	239
	31-Jan-96	10-Jun-96	01-0ct-96	244	113
	09-Jul-97	12-Nov-97	03-Feb-98	209	83
	04-Jul-96	14-Nov-96	03-Jul-97	364	231
	13-Jul-99	23-Nov-99	23-Feb-00	225	92
	27-Feb-97	21-Jul-97	26-Nov-97	272	128
	28-Mar-96	22-Jul-96	28-Mar-97	365	249
	28-May-96	27 -Sep-96	29-May-97	366	244
	26-Feb-98	17-Jul-98	20-Nov-98	267	126
	25-Feb-97	23-Jun-97	25-Nov-97	273	155
	05-Sep-98	15-Dec-98	15-Mar-99	191	90
	07-0ct-98	02-Mar-99	02-Jun-99	238	92
	20-Aug-02	08-Jan-03	20-Aug"03	365	224
	06-Mar-01	28-Aug-01	06-Mar-02	365	190
	18-Sep-02	08-Apr-03	06-Aug-03	322	120
	13-Jun-01	05-Nov-01	13-Jun-02	365	220
	12-Dec-00	26-Mar-01	12-Dec-01	365	261
	04-Jan-01	25-Apr-01	26-Jul-01	203	92
	02-Jan-02	05-Jun-02	02-Jan-03	365	211
	22-Jul-03	16-Dec-03	08-Dec-03	139	-8
	28-May-01	23-0ct-01	28-May-02	365	217
	06-Mar-03	23-Sep-03	20-Nov-03	259	58
09896897	02-Jun-05	15-Nov-05	29-Nov-05	180	14
	12-May-04	28-0ct-04	04-Nov-04	176	7

A review of several applications owned by ENZO reveals that there was a pattern of abandoned applications and delayed revivals. For example, of 28 occurrences of revival of ENZO applications, 11 have been identified where applicant waited almost a year (in fact, exactly 364 to 366 days) to file a petition to revive. Further, of those 28 occurrences, in 20 instances, applicant waited 3 months or more after the mailing of the notice of abandonment to file a petition to revive. Only 7 times did applicant file a petition to revive within 2 months of the mailing of the notice of abandonment. This pattern was

not before the Office when the decisions were made to grant the petitions to revive in the various applications.

Given all of this information, a question is raised as to whether in each application i) applicant deliberately chose not to respond to the Office action and to allow the application to become abandoned, ii) applicant deliberately chose not to seek revival of an abandoned application, or iii) applicant deliberately chose to delay seeking the revival of the abandoned application.

Under the circumstances, beyond the statement that the delay in taking action was unintentional, additional explanation is required. Accordingly, the Office is requiring applicant to show cause as to why the decision granting the petition to revive in each of the involved applications should not be vacated.

The Office is requiring further information as to i) the cause of the delay between the date the application became abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, ii) the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a grantable 37 CFR 1.137(b) petition was filed, and iii) how these delays were "unintentional." Further, if there was a delay in discovering the abandoned status of the application, a showing as to how the delay occurred despite the exercise of due care or diligence on the part of he applicant. What caused the delay in filing the petition to revive until just before the end of the one-year period? In essence, what is applicant's basis for the assertion that the delay was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b)?

Where any single application was abandoned and revived on multiple occasions, the response to this Order should address each occasion. This is regardless of whether the tables set forth herein specifically note those abandonments.

Among whatever evidence the applicant deems necessary to adequately respond to the Order, the Office is requiring an explanation of the docketing system used for recording due dates for response to an Office communication and how it operated. Upon receipt of an Office communication, how were the shortened statutory period for reply, statutory period for reply and

period for filing a petition to revive docketed? How is it that a significant number of petitions were filed on the 363rd - 365th day of abandonment? Was the one-year period to file a petition to revive specifically docketed? When electing to file a continuing application rather than a reply to an Office action, how was copendency verified? In other words, what is Enzo's explanation for the delay in filing a petition to revive solely for the purposes of continuity? Enzo's response should include copies of the relevant docket entries, including a showing of what action (or inaction) was docketed for a date three months from the mail date of the Office action (or one month in the instance of a restriction requirement or notice to comply); what action (or inaction) was docketed for a date six months from the date of the end of the statutory period for reply (or seven months in the instance of a notice to comply); and what action was docketed for a date 1 year from the date of likely abandonment (both counting 1 year from the end date of expiration of the shortened statutory period and 1 year from the end date of the statutory period for reply). 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.

Further correspondence with respect to this Order 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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles Pearson
Director
Office of Petitions

STATUTES, RULES AND REGULATIONS

35 U.S.C. 133 provides that:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 1.137(b) provides:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. 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.

*****

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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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Paper No.

ENZO BIOCHEM, INC.
527 MADISON AVENUE
(9th FLOOR)
NEW YORK NY 10022

COPY MAILED
FEB 05 2010

In re Application of :
Rabani et al. :
Application No. 09/896,897 : ON PETITION
Filed: June 30, 2001 :
Attorney Docket No. Enz-60 :

This is a decision on the petition filed, August 10, 2009, requesting that the order to show cause[1] mailed on June 5, 2009 be vacated.

The record of this application and petitioners' response to the order to show cause have been reviewed and considered. The record of this application does not indicate that the abandonment of the application occurred despite the exercise of reasonable due care or diligence on the part of the applicant. See In re Mattullath, 38 App. D.C. 497, 514-15 (1912), and Ex parte Pratt, 1887 Dec.Comm'r Pat. 31, 32-33 (1887). The petition to revive this application, however, is not under the "unavoidable" standard of 35 U.S.C. § 133 and 37 CFR 1.137(a), but is under the "unintentional" standard of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). Therefore, the Office of the Commissioner for Patents is terminating the inquiry initiated by the order to show cause without vacating or otherwise disturbing the decision reviving the above-identified application.

[1] The order requested petitioners to show cause why the decisions mailed February 19, 2003 and February 13, 2006 in the above-identified application reviving the application should not be vacated.

The petition is granted to the extent that the Office of the Commissioner for Patents will not vacate or otherwise disturb the decisions reviving the above-identified application.

As this inquiry has been terminated without vacating or otherwise disturbing the decision reviving the above-identified application, petitioners' request that the order to show cause be "vacated" is dismissed as moot.

Telephone inquiries regarding this decision may be directed to Senior Petitions Attorney Nancy Johnson at 571-272-3219.

for

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JUN 25 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 9

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of: Andrew C. Bartlett, et al.)
Application No. 09/896,925)
Filed: June 29, 2001) **DECISION ON REQUEST FOR**
For: PROGRAMMABLE CONTROL OF) **WITHDRAWAL AS ATTORNEY**
DATA ATTRIBUTES)

This is a decision on the Request To Withdraw from Representation filed June 11, 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.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Thomas V. Smurzynski, Esq.
Lahive & Cockfield LLP
28 State Street
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 5/6/05

dss
Paper Number

In re application of :
C. Chang et al. : DECISION ON
Serial No. 09/896,928 : PETITION
Filed: June 29, 2001 :
For: SINGLE STEP FIBER PREPARATION :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed September 22, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 11, 2004, for failure to timely file a proper reply to the Office letter of November 28, 2003, be withdrawn since the applicants did timely file a response thereto on March 01, 2004 by facsimile transmission to the USPTO. (A copy of the papers filed March 01, 2004 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO has been attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on March 01, 2003 by facsimile transmission as evidenced by the Facsimile Transmission Report. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on November 28, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed March 01,2004 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is GRANTED.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

VOLENTINE FRANCOS, P.L.L.C.
One Freedom Square
Suite 1260
Reston, VA 20190

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

Russell E. Fowler, II
ICE MILLER
One American Square
Box 82001
Indianapolis IN 46282-0002

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Shoemaker et al. :
Application No. 09/896,960 : DECISION ON PETITION
Filed: June 29, 2001 :
Attorney Docket Number: :
P00494-US-1 (11049.0013) :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on July 22, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior filed provisional application, number 60/215,309.

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 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 U.S.C. 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on June 29, 2001, within 12 months of the filing date of provisional application number 60/215,309, filed on June 30, 2000 for which priority is claimed. A reference to the prior filed provisional application 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

petition was submitted during the pendency of the nonprovisional application seeking the benefit of the prior filed provisional application. *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 of prior filed provisional application number 60/215,309, filed June 30, 2000, is granted as of the date of the filing of the petition.

A corrected filing receipt which includes the priority claim to provisional application number 60/215,309, filed June 30, 2000, along with the projected publication date of November 21, 2002, of the instant application accompanies this Decision.

This application will be forwarded to Technology Center AU 3623 for processing of the Amendment filed July 22, 2002, and for consideration of the claims under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior filed provisional application, number 60/215,309, filed on June 30, 2000.

Telephone inquiries concerning this matter should be directed to petitions attorney Derek L. Woods at (703) 305-0014.

Frances Hicks for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances Hicks

Enclosure: 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. 7

CROCKETT & CROCKETT
SUITE 400
24012 CALLE DE LA PLATA
LAGUNA HILLS, CA 92653

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of :
David M. Giuntoli et al :
Application No. 09/896,977 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 212/292 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 21,2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 22, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

CAESAR RIVISE BERNSTEIN
COHEN & POKOTILOW LTD
12TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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OCT 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Philip E. Risser :
Application No. 09/896,987 :
Filed: July 2, 2001 :
Attorney Docket No. S1015/20005 :

ON PETITION

This is a decision on the petition, filed October 10, 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 September 4, 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.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Cressy for
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to timely request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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Paper No. _____

Date : October 15, 2002

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of 09/896,987

Applicant(s) : Philip E. Risser
Application No. : 09/896,987
Filed : LOW HEADROOM TELESCOPING BRIDGE CRANE SYSTEM

The above-identified application has been assigned Patent No. 6,471,463 and an issue date of October 29, 2002.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 29, 2002:

> "All reference to Patent No. 6,471,463 to Philip E. Risser of Pennsylvania for LOW HEADROOM TELESCOPING BRIDGE CRANE SYSTEM appearing in the Official Gazette of October 29, 2002 should be deleted since no patent was granted."

Karen Creasy for

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07

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DAVID R. METZGER
SONNENSCHEIN NATH & ROSENTHAL
P.O. BOX # 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Koichiro Kezuka, et al. :
Application No. 09/896,999 : ON PETITION
Filed: July 2, 2001 :
Attorney Docket No. 09792909-5106 :

This is a decision on 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 submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/09

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 09897003 Patent No.: 6951137 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Lin M. Gruts AU 2855 3/27/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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425 POST RD
FAIRFIELD CT 06824

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Vilppula, et al. :
Application No. 09/897,004 : DECISION ON PETITION
Filed: July 2, 2001 :
Attorney Docket No. 442-010460-US(PAR) :

This is a decision on the petition filed on August 9, 2004, 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 December 31, 2003, which set a shortened statutory period for reply of three (3) months. On July 2, 2004 (Certificate of Mailing dated June 30, 2004), petitioner obtained a three month extension of time and filed an RCE. However, the RCE was improper because it was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, the above-identified application became abandoned on July 1, 2004. A Notice of Improper RCE was mailed on July 26, 2004. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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 a submission under 37 CFR 1.114 (an amendment and an IDS) to accompany the previously filed RCE.

The application file is being forwarded to Group Art Unit 2863 for consideration of petitioner's RCE, filed July 2, 2004, and the IDS and amendment, both filed August 9, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

KIRKPATRICK & LOCKHART, LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

In re Application of: Hellbusch, et al.
Application No. 09/897,103
Filed: July 3, 2001
For: ENTERLINK CONDUCTOR

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on October 26, 2001.

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.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition, have not been listed on an attached PTO form 1449. To ensure proper consideration, a listing of these references should be provided.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 10/21/04

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OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of	:	
Eric Martinez et al.	:	
Application No. 09/897,139	:	DECISION ON PETITION
Filed: July 3, 2001	:	
Attorney Docket No. IPG-PT074	:	

This is a decision on the petition, filed May 21, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed April 23, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 30, 2009 indicating that no response was received (the Notice erroneously stated no response to the Office letter mailed October 21, 2008 was received but that was the date of the Notice of Appeal).

Petitioner asserts that the Notice of Abandonment was prematurely sent on October 21, 2008 as the extendable period to file an appeal brief had not yet expired. The instant petition, five month extension of time and Request for Continued Application were timely filed within the extendable period from the date of the Notice of Appeal. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center Art unit 2618 for consideration of the Request for Continued Examination in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

February 25, 2003

Ken I. Yoshida
Knoble & Yoshida
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

In re application of:
Nakane, et al DECISION ON PETITION
Serial No.: 09/897,169
Filed: July 2, 2001
For: MUFFLER FOR COMPRSSOR

This is a decision on the petition received on October 8, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed August 21, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 25, 2001. The notice of abandonment was mailed August 26, 2002.

On October 8, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on October 1, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on October 1, 2001. The documents of October 1, 200l, contained the wrong serial number.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 3746.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

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APR 0 3 2003

OFFICE OF PETITIONS

In re Application of
Robert H. K. Chen et al.
Application No. 09/897,206
Filed: July 2, 2001
Attorney Docket No. ORT-1455

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed July 7, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the above-identified application became abandoned on October 8, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1626 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 14

KENNETH D. DAUGH
2413 BLODGETT
HOUSTON, TX 77004

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Angela W. Jackson :
Application No. 09/897,270 : ON PETITION
Filed: July 3, 2001 :
For: COLLAPSIBLE CLOTHESLINE :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 23, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on December 12, 2003, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 26, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 24, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (2) above.

As to item (1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action 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.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is $750. With the present petition, petitioner has submitted $685. Accordingly, a consideration on the merits of the present petition cannot be made until the $65 fee deficiency is submitted to the Office.

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:	(703) 872-9306 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Courtesy copy of the Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 14

KENNETH D. DAUGH
2413 BLODGETT
HOUSTON, TX 77004

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OFFICE OF PETITIONS

In re Application of
Angela W. Jackson
Application No. 09/897,270
Filed: July 3, 2001
For: COLLAPSIBLE CLOTHESLINE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 23, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on December 12, 2003, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 26, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 24, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (2) above.

As to item (1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action 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.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is $750. With the present petition, petitioner has submitted $685. Accordingly, a consideration on the merits of the present petition cannot be made until the $65 fee deficiency is submitted to the Office.

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:	(703) 872-9306 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Courtesy copy of the Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

KENNETH D. DAUGH
2413 BLODGETT
HOUSTON, TX 77004

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Angela W. Jackson	:	
Application No. 09/897,270	:	ON PETITION
Filed: July 3, 2001	:	
For: Collapsible Clothesline	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 18, 2005, and resubmitted on October 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application is being forwarded to Technology Center AU 3634.

Wan Laymon
Petitions Examiner
Office of Petitions

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Paper No. 11

MICHAEL D. RECHTIN
FOLEY & LARDNER
SUITE 3300
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OFFICE OF PETITIONS

In re Application of :
Edward J. Holupka et al :
Application No. 09/897,326 : ON PETITION
Filed: July 2, 2001 :
Attorney Docket No. 29722/119 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 9, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3737.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Michael Bergman
BERGMAN KUTA LLP
P.O. Box 400167
Cambridge, MA 02140

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AUG - 8 2006

TECHNOLOGY CENTER 2100

In re Application of:
Robert J. HALES
Appl. No.: 09/897,429
Filed: July 3, 2001
For: SYSTEM AND METHOD FOR NETWORK INFRASTRUCTURE MANAGEMENT

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 18 April 2006, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the APPENDIX G, APPENDIX H, APPENDIX I, APPENDIX K, APPENDIX L, APPENDIX M, APPENDIX N, and APPENDIX 0 submitted on 18 April 2006 be expunged from the record. Petitioner states that the information contains materials that are subject to Proprietary and Trade Secret materials which have not been made public. The petition fee set forth in 37 CFR § 1.17(h) has been.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Ave, N.W.
Washington, D.C. 20004-2401

In re Application of: Elizabeth Lee, et al.	)	
Application No. 09/897,450	)	
Filed: July 3, 2001	)	
For: SYSTEM, APPARATUS, AND METHOD FOR PERFORMING CRYPTOGRAPHIC VALIDITY SERVICES	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed March 8, 2002, by Thomas W. Krause.

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 above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Ave, N.W.
Washington, D.C. 20004-2401

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Technology Center 2100

In re Application of: Elizabeth Lee, et al.)
Application No. 09/897,450)
Filed: July 3 2001)
For: SYSTEM, APPARATUS, AND METHOD FOR PERFORMING CRYPTOGRAPHIC VALIDITY SERVICES) **DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed January 16, 2002, by C. Edward Polk.

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 above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Olivera, McIntosh, Yoshikami,	:	
Cartier, and Luo	:	DECISION REFUSING STATUS
Application No. 09/897,465	:	UNDER 37 CFR 1.47(a)
Filed: 3 July, 2001	:	
Attorney Docket No. 2314-236	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 3 July, 2001.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 3 July, 2001, with a declaration naming Baldomero M. Olivera, J. Michael McIntosh, Doju Yoshikami, G. Edward Cartier, and Siqin Luo as joint inventors and signed by all inventors except Olivera on behalf of themselves and joint inventor Olivera.

Petitioners assert, in a declaration by Lloyd Sadler, that joint inventor Olivera in out of town and cannot be reached.

---

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided sufficient proof that diligent efforts were made to contact the non-signing inventor. While Mr. Sadler states that "formal papers" were faxed by Ms. Shaleen Watkins to the inventors who had not executed the declarations, petitioners have not provided a statement by Ms. Watkins, the individual who has first-hand knowledge of the details of the circumstances unde which the papers were sent, stating that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to non-signing joint inventor Olivera. At a minimum, petitioners must send or give a copy of the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor.[2] Petitioners may provide proof by submitting a copy of the cover letter transmitting the application papers to the non-signing inventor at his last known address or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event the inventor refuses to sign the declaration,[3] petitioners may show proof by providing a copy of any written refusal received from the non-signing inventor. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

---

[2] MPEP 409.03(d).

[3] Id.

If the application is returned as undeliverable, petitioners should submit a copy of the envelope showing that the application sent to the last-known address was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details. The fact that the non-signing inventor is out of town or on vacation is not a reason for filing under 37 CFR 1.47.

With regard to item (2), the declaration provided with the petition is defective in that Mr. Sadler has signed in the space provided for joint inventor Olivera's signature. All the signing inventors must sign the declaration for application on behalf of themselves and on behalf of the non-signing inventor. A declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement a statement saying that they are signing on behalf of the non-signing inventor. There is no provision under 37 CFR 1.47(a) for another individual who is not an inventor to sign on behalf of the non-signing inventor. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and on behalf of the non-signing inventor, is required with any renewed petition.

Additionally, the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[4] Specifically, there is an uninitialed and/or undated alteration in the signature block for joint inventor Cartier. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[5]

It is additionally noted that the present petition appears to be a copy of a petition filed in Application No. 09/219,446, of which the present application is a division.

37 CFR 1.64(d)(3) provides, in pertinent part

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional

---

[4] See 37 CFR 1.52(c).

[5] 37 CFR 1.67(a)(2).

application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:

> (I) a copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c)

As such, petitioners should submit a copy of the decision granting Rule 47(a) status in the prior application with any renewed petition.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 02-2135, as authorized in the present 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
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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

06/18/2004 CKHLOK 00000029 022135 09897465

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Olivera, McIntosh, Yoshikami,	:	
Cartier, and Luo	:	DECISION NOTING JOINDER OF
Application No. 09/897,465	:	INVENTOR AND PETITION UNDER
Filed: 3 July, 2001	:	37 CFR 1.47(a) MOOT
Attorney Docket No. 2314-236	:	

Papers filed on 21 October, 2004, in response to the decision on petition mailed on 21 June, 2004, included a two-month extension of time as well as a Declaration signed by the previously non-signing inventor, Baldomero M. Olivera, in compliance with 37 CFR 1.63.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to Technology Center Art Unit 1645 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MARC S. WEINER
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SUITE 500 EAST
FALLS CHURCH, VA 22042

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OFFICE OF PETITIONS

In re Application of :
David Holtzman et al :
Application No. 09/897,473 : DECISION GRANTING PETITION
Filed: July 3, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. OPI-101-CIP-III :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2004, 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 June 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m);

and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 2131 for examination in due course.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
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Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603

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AUG 0 5 2002

OFFICE OF PETITIONS

Applicant: Thomas A. Szyperski
Appl. No.: 09/897,583
Filing Date: June 29, 2001
Title: METHOD OF USING REDUCED DIMENSIONALITY NUCLEAR MAGNETIC RESONANCE SPECTROSCOPY FOR RAPID CHEMICAL SHIFT ASSIGNMENT AND SECONDARY STRUCTURE DETERMINATION OF PROTEINS
Attorney Docket No.: 19226/2051 (R-5655)
Pub. No.: US 2002/0041850 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 12, 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

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CHARLES W. HANOR
CHARLES W. HANOR, P.C.
PO BOX 91319
SAN ANTONIO, TX 78209

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JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 6,383,150 :
Issue Date: May 7, 2002 :
Application No. 09/897,589 : ON PETITION
Filed: July 2, 2001 :
Patentee(s): Kendal L. Stewart, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on August 1, 2006, to accept the delayed payment of a maintenance fee for the above-identified patent. The delay in responding is regretted.

A review of the record shows that compliance with 37 CFR 3.73(b) was satisfied on July 2, 2001.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED.**

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that the address given on the petition differs from the address of record. Therefore, a courtesy copy of this decision is being mailed to the address given on the petition.

Additionally, petitioner will not receive future correspondence, which **may** be mailed, regarding maintenance fees for the above-identified patent, unless a "Fee Address Indication" form and/or a "Request for Customer Number" form(s) is submitted (See PTO/SB/47 and/or PTO/SB/125).

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Kendal L. Steward, MD
6836 Bee Cave Road
Suite 103
Austin, TX 78746

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David D. Kloba et al :
Application No. 09/897,607 :
Filed: July 3, 2001 :
Attorney Docket No. 1933.001000D :

This is a decision on the petition, filed August 25, 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 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petition, the file will be forwarded to Technology Center AU 2154 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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SEP 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Jarrell, et al. :
Application No. 09/897,712 : ON PETITION
Filed: June 29, 2001 :
Attorney Docket No. 2003320-0030 :

This is a decision on the petition under 37 CFR 1.181, filed June 9, 2005 (Certificate of Facsimile Transmission Date: May 24, 2005), to withdraw the holding of abandonment.

A "Notice of Abandonment" was mailed on April 26, 2005. However, a review of the application file indicates a "Withdrawal of Previously Sent Notice" was mailed May 25, 2005. The "Withdrawal of Previously Sent Notice" states, in pertinent part, "The Notice of Abandonment mailed 04/26/2005 was sent in error and is hereby withdrawn." As such, the instant petition is not necessary.

Accordingly, the petition is dismissed as moot.

The file is being returned to Technology Center 1600 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 31, 2006

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/897722 Patent No.: 7,046,750

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: Errors in col. 1, 7 and Abstract are grammatical. Correction approved. Errors in Col. 8 is the printing of cancelled claims. Correction approved.

Shaeng Lin — SPE

2611 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: **7,046,750**

DATED: **May 16, 2006**

INVENTOR(S): **Vierthaler 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 1
line 61, before "portion" delete "the"

Column 7
In the claims, claim 11, line 7, delete "portions" and insert --portion--

Column 8
In the claims, claim 14, line 16, before "second" delete "-"
In the claims, lines 24-25, delete claim 17
In the claims, lines 26-28, delete claim 18
In the claims, lines 29-30, delete claim 19

In the Abstract
line 2, before "portion" delete "the" and insert --a--
line 2, before "input" insert --the--

MAILING ADDRESS OF SENDER:
Patrick J. O'Shea, Esq.
O'Shea, Getz & Kosakowski, P.C.
1500 Main Street, Suite 912
Springfield, MA 01115

PATENT NO. 7,046,750

MAY 25 2006

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NATTER & NATTER
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SUITE 808
NEW YORK NY 10017

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JUN 17 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Eun-Jun Kwak
Application No. 09/897,742
Filed: July 2, 2001
For: **METHOD FOR CREATING CARICATURE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment filed May 26, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On July 2, 2004 , a non-final Office action was mailed in the instant application. A response from Applicants was not received. Accordingly, the application became abandoned. No Notice of Abandonment has been mailed.

Petitioner alleges that the Office action of July 2, 2004 was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the application file finds no irregularity in the mailing of the Office action since it was mailed to the address of record at that time. A review of the file further finds that the Office action in question was returned as undeliverable and, as stated in the petition by petitioner, the failure of applicant to receive the Office action was not a result

of Office error, but rather as a result of applicant's failure to timely notify the Office of a change in correspondence address.

37 C.F.R. § 1.33 states:

(a) The applicant, the assignee(s) of the entire interest (see §§ 3.71 and 3.73) or an attorney or agent of record (see §1.34(b)) may specify a correspondence address to which communications about the application are to be directed. All notices, official letters, and other communications in the application will be directed to the correspondence address or, if no such correspondence address is specified, to an attorney or agent of record (see § 1.34(b)), or, if no attorney or agent is of record, to the applicant, so long as a post office address has been furnished in the application. Double correspondence with an applicant and his attorney or agent, or with more than one attorney or agent, will not be undertaken. If more than one attorney or agent be made of record and a correspondence address has not been specified, correspondence will be held with the one last made of record.

Petitioner admits that the PTO was not timely notified of the change in correspondence address and therefore there was no irregularity in the mailing of the Office action. **The reason for applicant's failure to receive the Office action appears to be unintentional.**

For the above reasons, the petition under 37 CFR 1.181(a) is **DENIED.**

Petitioner may want to consider filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The file is being forwarded to thee examiner for mailing a Notice of Abandonment. From there, the file will be returned to the Files Repository.

Krista Zele, Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

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OFFICE OF PETITIONS

In re Application of	:	
Eun-Jun Kwak	:	
Application No. 09/897,742	:	DECISION GRANTING PETITION
Filed: July 2, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3598-15	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 2, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2623.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109

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OFFICE OF PETITIONS

In re Patent No. 6,906,093 :
Issued: June 14, 2005 : LETTER REGARDING PTA
Application No. 09/897,755 :
Filed: July 3, 2001 :
Atty. Dkt. No.: 038602-1220 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed June 13, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Pat. No. 6,906,093 on June 14, 2005. The patent issued with a patent term adjustment (PTA) of 25 days. Patentees indicate that the PTA of 25 days indicated on the Issue Notification mailed May 25, 2005 disagrees with patentees' calculation of PTA. Patentees seek verification of the calculation of PTA. Patentees have not indicated a specific concern regarding the adjustment. A review of the record reveals that applicants are not entitled to less than 25 days so granted.

In any event, an overall adjustment of 346 days under 37 CFR 1.702 for Office delays was reduced a total of 321 days for applicants' failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704, resulting in an adjustment of 25 days, as indicated on the patent.

Patentees are advised that any request for reconsideration under 37 CFR 1.704(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.704(b) shall be dismissed as untimely as to those issues.

Patentees are further advised that any request for reconsideration under 37 CFR 1.704(d) for adjustments/reductions occurring after issuance of Notice of Allowance must be accompanied by the required application for patent term

adjustment (and required fee) and must be submitted no later than two months after the date of issuance of the patent.

No fee is due in connection with this matter.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. 17

Paul T Dietz
Seagate Technology LLC
Intellectual Property Dept NRW097
7801 Computer Avenue South
Bloomington MN 55435

MAIL

FEB 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Zine Eddine Boutaghou, et al.
Application No. 09/897,779
Filed: June 29, 2001
For: **BI-LEVEL CAVITY FOR A SLIDER AIR-BEARING SURFACE**

DECISION
ON PETITION

This is a decision on the Petition For Withdrawal Holding of Abandonment, filed December 13, 2004 pursuant to 37 CFR 1.181. No fee is required.

The petition is ***Granted***.

This application became abandoned for failure to timely file a response to the outstanding Office action mailed February 17, 2004. A Notice of Abandonment was mailed on December 1, 2004.

Petitioner alleges to have timely filed a reply on May 17, 2004. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of May 17, 2004. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that an 8 page document from Petitioner was received in the U.S. Patent and Trademark Office on May 17, 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.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response which accompanied the subject petition. From there, the file will be forwarded to the examiner for consideration in due course.

It is noted that the petitioner is merely acting in a representative capacity. The application record does not have any evidence granting power of attorney to the petitioner.

It is further noted that the facsimile transmission of May 17, 2004 was not to the Office's official fax number. For future reference, Applicants might want to note that all future facsimile transmissions to the Office should be to the Official Fax number for the entire Patent and Trademark Office (i.e., 703-872-9306).

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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OFFICE OF PETITIONS

In re Application of :
David Bartholomew et al. :
Application No. 09/897,813 : ON PETITION
Filed: July 1, 2001 :
Attorney Docket No.47254.3100 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a response to the final office action mailed July 13, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No.11/697123.

It is not apparent whether the person signing the statement of the unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 15 2002

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Paper No. 5

Mark Pohl
55 Madison Avenue
4th Floor
Morristown, New Jersey 07960

In re Application of: Stephen Reuning	)	**DECISION ON PETITION**
Application No. 09/897,826	)	**UNDER M.P.E.P. §708.02(II):**
Filed: July 3, 2001	)	**INFRINGEMENT**
For: CANDIDATE CHASER	)	

This is a decision on the petition, filed April 10, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Technology Center 2100

Paper No. 12

Mark Pohl
Pharmaceutical Patent Attorneys
55 Madison Avenue, 4th Floor
Morristown, NJ 07960-6397

In re Application of: Reuning
Application No. 09/897,826
Attorney Docket No. Diedre
Filed: July 3, 2001
For: CANDIDATE CHASER

DECISION ON PETITION

This is a decision on the petition filed on March 25, 2003 requesting the Appeal filed November 22, 2002 be forwarded to the Board of Patent Appeals and Interferences.

The petition is **DISMISSED** as moot.

A review of the file jacket shows the appeal brief was not properly processed upon filing. The Office regrets any inconvenience this may have caused applicant.

The application is being forwarded to the examiner of record for consideration of applicant's appeal brief.

Telephone inquiries should be directed to the examiner of record or his supervisor, Dov Popovici.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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SEP 17 2005

Paper No. 22

Technology Center 2100

Mark Pohl
Pharmaceutical Patent Attorneys, LLC
55 Madison Avenue, 4th Floor
Morristown, NJ 07960-7397

In re Application of:
Stephen M. REUNING
Application No. 09/897,826
Filed: July 03, 2001
For: CANDIDATE CHASER

DECISION ON PETITION UNDER 37 C.F.R. § 1.8 TO ACCEPT PAPERS AS TIMELY FILED AND UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed February 03, 2005 and June 01, 2005 under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is treated as a petition under 37 C.F.R. § 1.8(b) to accept papers as timely filed and as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

The petition is **GRANTED.**

This application was held abandoned for failure to file a request for rehearing within two (2) months of the date of the Board's decision mailed on September 30, 2004 or seeking court review of the Board's decision. A Notice of Abandonment was mailed January 25, 2005.

Petitioner's submissions of February 03, 2005 and June 01, 2005 meet the applicable criteria. Petitioner asserted that the Request for Rehearing was filed in a timely manner on November 23, 2004. Copies of the originally submitted Request for Rehearing and the Certificate of Transmission under 37 CFR § 1.8 signed by Mark Pohl dated November 23, 2004 have been provided. A personal statement of Mark Pohl is submitted on July 27, 2005.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Board of Patent Appeals and Interferences to consider the Request for Rehearing under 37 CFR § 1.197(b).

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Vincent N. Trans, Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

09/897891

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-18-05

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 6958522

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - ~~PK 3-922~~ South Tower 9A22

Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check Drawings

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:

Kenneth Parker — **SPE**

2815 — **Art Unit**

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Harm M. Deckers	: DECISION ON REQUEST FOR
Patent Number	: 7585645	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/897,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **111** 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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1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Shoji Otaka :
Application No. 09/897,911 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. 210793US2SRD :

This is a decision on the petition, filed June 10, 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 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2642 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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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

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JAN 3 0 2009

OFFICE OF PETITIONS

In re Application of :
Yoshiko Tamaki, et al. :
Application No. 09/897,929 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. ASAM.0011 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 26, 2008. A Notice of Abandonment was subsequently mailed on November 10, 2008.

A grantable petition under 37 CFR 1.137(b)[1] 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). The petition lacks item (1).

In this regard 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

[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).

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).

While the petition includes a Request for Continued Examination (RCE), it does not include a proper submission under 37 CFR 1.114. Therefore, the petition cannot be granted at this time.

It is also noted that a Request to Suspend Prosecution was filed in conjunction with the RCE. However, petitioner should note that 37 CFR 1.103(c) states that "[a]ny request for suspension of action under this paragraph must be filed with the request for continued examination under § 1.114, ..." In this case, the RCE does not include a submission in compliance with 37 CFR 1.114.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] **www.uspto.gov/ebc/efs_help.html** (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

In re Application of :
Yoshiko Tamaki, et al. :
Application No. 09/897,929 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. ASAM.0011 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 26, 2008. It is noted that a Notice of Improper Request for Continued Examination (RCE) was mailed on September 30, 2008, in response to a RCE filed September 24, 2008. On October 8, 2008, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 30, 2009. On March 25, 2009, the present petition was filed, including a submission under 37 CFR 1.114.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 2452 for processing of the RCE filed September 24, 2008 in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Patent No. 7,206,081	:	DECISION ON
Sada, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: April 17, 2007	:	AND NOTICE OF INTENT
Application No. 09/897,946	:	TO ISSUE
Filed: July 5, 2001	:	CERTIFICATE OF
Attorney Docket No. 862.C2288	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.702(2)", filed June 18, 2007. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand one hundred twenty-three (1123) days to one thousand two hundred forty-three (1243) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand two hundred forty-three (1243)** days.

On April 17, 2007, the above-identified application matured into U.S. Patent No. 7,206,081. The instant request for reconsideration filed June 18, 2007 was timely filed within two months of the date the patent issued (June 17, 2007 fell on a Sunday. See 37 CFR 1.7(a)).

The Patent issued with a Patent Term Adjustment of one thousand one hundred twenty-three (1123) days. Patentees states that they should not have been assessed applicant delay of one hundred twenty (120) days for the submission of an IDS after the mailing of the Notice of Allowance, because the IDS was a duplicate submission of an IDS previously filed.

Under the circumstances of this case, it is concluded that the filing of applicant's IDS is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicant previously submitted the IDS on November 1, 2005. As this IDS was filed after the mailing of a Notice of Allowance on October 12, 2005, applicants were properly assessed 120 days of delay under § 1.704(c)(10). On May 19, 2006, applicants filed a "REQUEST FOR INITIALED FORM PTO-1449", stating that they had not yet received an initialed form PTO-1449 from the Examiner. Applicants were assessed one hundred twenty (120) days of applicant delay for this submission. Because the IDS was previously filed on November 1, 2005, under the facts of this case the assessment of one hundred twenty (120) days of applicant delay with respect to these filings is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **one thousand two hundred forty-three (1243)** days (1363 days of PTO delay and 120 days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand two hundred forty-three (1243)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries
~~Nancy Johnson~~ Legal Advisor
Senior ~~Petitions Attorney~~
Office of ~~Petitions~~ Patent Legal Administration

Enc: draft certificate of correction

Day : Monday
Date: 8/20/2007

PALM INTRANET

Time: 10:57:57

PTA Calculations for Application: 09/897946			
Application Filing Date:	07/05/2001	PTO Delay (PTO):	1363
Issue Date of Patent:	04/17/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	240
Post-Issue Petitions:	0	Total PTA (days):	1243
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	08/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
69.5	03/28/2007	PTA 36 MONTHS			
69	04/17/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	397		54
68	03/21/2007	EXPORT TO FINAL DATA CAPTURE			
67	03/20/2007	DISPATCH TO FDC			
66	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	03/20/2007	TC RETURN TO PUBS			
64	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	62
63	03/12/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
62	03/12/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
61	03/08/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
60	11/01/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	62
57	01/29/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
55	11/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	62
54	11/16/2005	ISSUE FEE PAYMENT VERIFIED			
53	01/27/2006	FINISHED INITIAL DATA CAPTURE			

52	11/16/2005	ISSUE FEE PAYMENT RECEIVED			
51	10/17/2005	EXPORT TO INITIAL DATA CAPTURE			
50	10/12/2005	MAIL NOTICE OF ALLOWANCE			
49	10/05/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	10/05/2005	ISSUE REVISION COMPLETED			
47	09/30/2005	ISSUE REVISION COMPLETED			
46	09/29/2005	NOTICE OF ALLOWABILITY			
45	08/03/2005	DATE FORWARDED TO EXAMINER			
44	07/28/2005	RESPONSE AFTER NON-FINAL ACTION			
43	04/28/2005	MAIL NON-FINAL REJECTION	966		-1
42	04/26/2005	NON-FINAL REJECTION			
41	04/12/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40	08/20/2001	REFERENCE CAPTURE ON IDS			
39	01/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
38	08/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	08/20/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	08/10/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
35	03/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
34	10/18/2001	APPLICATION DISPATCHED FROM OIPE			
33	10/16/2001	APPLICATION IS NOW COMPLETE			
32	08/20/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
31	08/20/2001	CORRESPONDENCE ADDRESS CHANGE			
30	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
29	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
28	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
27	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
26	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
25	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
24	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
23	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
22	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
21	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
20	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			

19	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
18	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
17	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
16	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
15	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
14	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
13	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
12	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
11	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
10	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
9	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
8	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
7	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
6	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/05/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,206,081 B2

DATED : April 17, 2007

INVENTOR(S) : Sada, 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 (1123) days

Delete the phrase "by 1123 days" and insert – by 1243 days—

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,015	07/05/2001	Toru Ochiai	105664.01	1186

25944 7590 05/07/2004

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER	
LUU, THANH X	
ART UNIT	**PAPER NUMBER**
2878	

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/898,015			

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
  (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
  The issue fee by 37 CFR 1.18 is $_____ . The publication fee, if required, by 37 CFR 1.18(d) is $_____.
- ☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PTO-1432 (07/01)

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Paper No. 0104

Ronald P. Kananen
RADER, FISHMAN & GRAUER PLLC
1233 20th Street, N.W.
Washington D.C. 20036

In re Application of: Mutsuyoshi ITO
Application No.: 09/898,068
Filed: July 5, 2001
For: SEMICONDUCTOR PACKAGE AND METHOD FOR PRODUCING THE SAME

DECISION ON PETITION

This is a decision on the petition filed on April 30, 2003, requesting reconsideration and withdrawal of the restriction requirement under 37 C.F.R. § 1.144.

The petition is **GRANTED**.

Petitioner asserts that the Requirement for Restriction of December 18, 2002, is improper because some of the claims subject to restriction were previously acted upon by the examiner, specifically claims 1-8. Petitioner asserts that no serious burden exist with the examination of the amended and the newly added claims, which were subject to restriction, since both method and product claims have received an office action on the merits.

Petitioner also asserts that the Requirement for Restriction of December 18, 2002, is improper because "the claims originally presented and acted upon by the Office on their merits determine the invention elected by an applicant in the application MPEP § 818.02(a)."

A review of the record indicates that a first action on the merits was issued on June 24, 2002. An amendment was filed by Petitioner on September 24, 2002. In response to this amendment, on December 18, 2002, the following restriction requirement was made:

> Restriction to one of the following inventions is required under 35 U.S.C. 121:
> I. Claims 2, 4 and 9-14, drawn to a product, classified in class 257, subclass 690.
> II. Claims 7, 8 and 15-20, drawn to a method, classified in class 438, subclass 106.

The inventions are distinct, each from the other because of the following reasons:

> Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as a process of encapsulating the cavity before or during mounting the semiconductor device.

Because these inventions are distinct for the reasons given above and the search required for the invention of Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Petitioner's remarks with respect to the lack of serious burden is found persuasive since the examiner did initially search and examine all originally filed claims, including both product and process claims. The amendment of September 24, 2002 merely placed originally filed claims 2, 4, 7 and 8 in independent form and cancelled claims 1, 3 and 5-6. Therefore, the scope of examination for these claims is no different than that already performed. The amendment did add new claims 9-20. Nevertheless, these claims are similar to the originally filed claims. The claims are not substantially more detailed than the originally filed claims and the inventions embodied in these claims is substantially the same as those originally presented and examined. Therefore, the scope of search and examination is substantially the same as before and no additional burden is caused by the amended claims.

As to the Petitioner's remarks with respect to the restriction requirement that "the claims originally presented and acted upon by the Office on their merits determine the invention elected by an applicant in the application MPEP § 818.02(a)"; this argument is not persuasive. Petitioner appears to be misinterpreting this section of the MPEP. This section relates to alternative methods of election by applicant, where restriction is proper. The section quoted by Petitioner does not relate to the propriety of a restriction requirement or the existence of burden and is unrelated to the issue at hand.

In summary, the restriction requirement of December 18, 20002, is hereby withdrawn and the application is being forwarded to examiner for action on the most recent amendment, December 19, 2003.

Sharon Gibson, Director
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 27

NIXON & VANDERHYE, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

MAY 19 2005

In re Application of:
Tadatomo Suga
Serial No.: 09/898,082
Filed: July 5, 2001
Attorney Docket No.: 925-203

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on April 29, 2005. There is no fee for this petition.

The petition is **GRANTED**.

On December 23, 2004, the Board of Patent Appeals and Interferences ("the Board") rendered a decision affirming the final rejection of all the claims pending in the application. On March 22, 2005, a Notice of Abandonment was mailed indicating that the application was abandoned in view of the decision by the Board rendered on December 23, 2004 and because the period for seeking court review of the decision had expired and there were no allowed claims.

A review of Office records indicates that a Request for Continued Examination (RCE) and an Amendment In RCE were timely filed on February 23, 2005. In addition, a credit card payment of $790.00 for the fee of the RCE was received with the RCE and posted on February 25, 2005.

It is clear that there was no abandonment in fact. The Notice of Abandonment mailed March 22, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for completing the processing of the RCE and for entry of the amendment. The application file will then be forwarded to the examiner for prompt appropriate action.

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

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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October 23, 2003

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005-1202

In re application of:
Kyung-Pill Ko DECISION ON PETITION
Serial No.: 09/898,089
Filed: July 5, 2001
For: COMPUTER SYSTEM AND OSD DISPLAYING METHOD FOR THE SAME

This is a decision on the petition received on September 25, 2001, for the Patent and Trademark Office to correctly examine the formal drawing in the above-identified application.

Upon review it was noted that the Notice to File Corrected Application Paper issued on August 21, 2001, was sent in error.

The petition is hereby GRANTED.

The application has been complete for release to Technology Center 2654.

The Office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

OIPE
SEP 25 2001
PATENT & TRADEMARK OFFICE

DAC #2

PATENT
P56497

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KYUNG-PILL KO

Serial No.: 09/898,089 Examiner: *to be assigned*

Filed: 5 July 2001 Art Unit: 2641

For: COMPUTER SYSTEM AND OSD DISPLAYING METHOD FOR THE SAME

PETITION UNDER 37 C.F.R. §1.181

Assistant Commissioner
for Patents
Washington, D.C. 20231

Sir:

Applicant respectfully petitions from the failure of the PTO to correctly examine the formal drawings originally filed in the above-captioned application, and as reasons therefore, states that:

RECEIVED
SEP 27 2001
OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Folio: P56497
Date: 9/25/01
I.D.: REB/kf

STATEMENT OF FACTS

1. On 5 July 2001, a new application for the above-captioned application was filed in the U.S. Patent & Trademark Office. The new application consisted of the specification, claims, Abstract, formal drawings (Figs. 1 through 5C, 5 sheets), executed Declaration and executed Assignment, Information Disclosure Statement and PTO-1449 with copies of nine (9) references cited in the aforesaid Information Disclosure Statement, claim of priority and a copy of the certified Korean priority document No. 8455/2001, and check Nos. 39863 and 39864 in the total amount of $982.00.

2. On or about 23 August 2001, the Applicant's undersigned attorney received a Notice to File Corrected Application Papers (Confirmation No. 3207) where submission of substitute formal drawing is required for the following reasons:

> "drawing figures contain text that is not in English (including, for example, a flow chart that was originally not in English that has been marked up to include the English text) see 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1)"

REMARKS

The aforesaid Notice does not mention which figure(s) has been objected to. Applicant assumes the Notice is referring to Fig. 4C where Korean characters are depicted.

The Commissioner's attention is invited to the specification, paragraph [0017] on page 5 where it says, "FIGS. 4A4D are OSD menu screens showing the process of selecting a language in the display device; and". Also, at lines 15-16 on page 10 (paragraph [0030]) Figures 4C and 4D are stated to show "Korean" and English selected by the user, respectively.

As is stated above, Fig. 4C is a menu screen displayed on a display device which indicates availability of Korean language as a selection by using Korean characters so as to enable users to immediately recognize the particular language. Therefore, the Korean characters which appear in Fig. 4C are not used as a text to explain the Fig. 4C itself, but **used as an image to illustrate** how one of the menu screens of the present invention appear in an actual display device.

In view of the above, it is respectfully submitted that the objection to the drawings of the present application based on 37 C.F.R. §1.84 and/or §1.52 does not apply, and should be withdrawn.

Should any question remain unsolved or further information be indicated, the Commissioner is invited to telephone Applicant's undersigned attorney at (202) 408-9040.

RELIEF REQUESTED

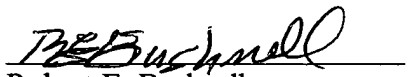
Accordingly, Applicant respectfully requests the Commissioner to:

A. Strike out of the file history the Notice to File Corrected Application Papers mailed 22 August 2001 for the above-captioned application and so notify the Applicant;

B. Place the instant application on the files for examination.

C. Grant such other and further relief as justice may require.

Respectfully submitted,



Robert E. Bushnell
Attorney for the Applicant
Registration No.: 27,774

1522 "K" Street N.W., Suite 300
Washington, D.C. 20005
(202) 408-9040

Folio: P56497
Date: 9/25/01
I.D.: REB/kf

SEP 25 2001
PATENT AND TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/898,089	07/05/2001	Kyung-Pill Ko	P56497

CONFIRMATION NO. 3207

FORMALITIES LETTER

OC000000006460052

ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON, DC 20005

Date Mailed: 08/22/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing figures contain text that is not in English (including, for example, a flow chart that was originally not in English that has been marked up to include the English text) see 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1);

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

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Alexandria, Virginia 22313-1450
www.uspto.gov

October 23, 2003

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005-1202

In re application of:
Kyung-Pill Ko DECISION ON PETITION
Serial No.: 09/898,089
Filed: July 5, 2001
For: COMPUTER SYSTEM AND OSD DISPLAYING METHOD FOR THE SAME

This is a decision on the petition received on September 25, 2001, for the Patent and Trademark Office to correctly examine the formal drawing in the above-identified application.

Upon review it was noted that the Notice to File Corrected Application Paper issued on August 21, 2001, was sent in error.

The petition is hereby GRANTED.

The application has been complete for release to Technology Center 2654.

The Office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

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Commissioner for Patents
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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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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Berger et al.	:	
Application No. 09/898,134	:	ON PETITION
Filed: July 3, 2001	:	
Attorney Docket No. 042933/274316	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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 $1020.00 extension of time fee submitted with the petition on October 30, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary.

Petitioner was mistakenly charged only $500 for the petition fee, which is actually $1500.00. Accordingly, $1000.00 will be transferred towards the petition fee from the excess money charged for the extension of time. Accordingly, only $20.00 will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090122

DATE : January 22, 2009

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,417,384

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:

/Joseph K McKane/
Supervisory Patent Examiner, Art Unit 1626

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

Pitney Bowes, Inc.
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484-8000

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JAN 3 0 2002

OFFICE OF PETITIONS

In re Application of:
Joshi, *et al.*
Application No. 09/898,232
Filed: July 2, 2001
Attorney Docket No. F-281

DECISION GRANTING PETITION

This is a decision on the January 8, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of July 2, 2002, rather than the presently accorded filing date of July 3, 2002.

Petitioner alleges that the application was deposited in Express Mail service on July 2, 2002. In support, the petition is accompanied by a copy of Express Mail receipt no. EK794131491US (the same Express Mail number found on the original application papers located in the official file). While the "date in" on the label copy is illegible, the petition also includes a printout of the shipment history of that label number from the usps.com web site. The shipping history indicates that the label was accepted by the USPS on July 2, 2001.

In view of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to July 2, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

CHRISTOPHER C. CAMPBELL
HUNTON & WILLIAMS
TYSONS CORNER, SUITE 1700
1751 PINNACLE DRIVE
McLEAN, VA 22102

COPY MAILED

JAN 13 2003

OFFICE OF PETITIONS

In re Application of
Gary Willman Policastro et al
Application No. 09/898,266
Filed: July 3, 2001
Attorney Docket No. 37077.001005

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**.

The file does not indicate a change of address has been submitted, although the address given on the Notification of Change of Status and Payment of Additional Filing Fee (Notification) 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 Notification; however, the Office will mail all future correspondence solely to the address of record.

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 2172.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HUNTON & WILLIAMS
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

SPE: J. Breene

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/7/06

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/898,266 Patent No.: 6915286

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: _____

John E Breene — SPE

2162 — Art Unit

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)
6695864	2004-02-24	09898302	2001-07-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	//James J. Leary//	Date (YYYY-MM-DD)	2010-02-23
Name	James J. Leary	Registration Number	35237

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6695864
Issue Date: February 24,2004
Application No. 09898302
Filed: July 3,2001
Attorney Docket No. CARDE.57876

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 15

JANSSON, SHUPE & MUNGER & ANTARAMIAN, LTD
245 MAIN STREET
RACINE WI 53403

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Czarnek et al.	:	
Application No. 09/898,313	:	DECISION ON PETITION
Filed: 3 July, 2001	:	
Atty Docket No. AMT-111US	:	

This is a decision on the petition filed on 22 April, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application was filed on 3 July, 2001. On 20 October, 2003, a non-final Office action was mailed, setting forth a three (3) month period for reply. No reply having been received, the

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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.

(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)).

application was held abandoned 21 January, 2004. Notice of Abandonment was mailed on 18 May, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner has submitted a three (3) month extension of time fee of $510.00. In this regard, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] As the extension of time filed on 22 April, 2005, was filed after the maximum extendable period for reply to the Office action mailed on 20 October, 2003, the fee is unnecessary and it is appropriate to apply it towards the petition fee. As such, the $510.00 paid on 22 April, 2005, will be credited to counsel's deposit account, No. 23-0650.

Receipt of the small entity status statement filed on 22 April, 2005, is acknowledged. Small entity status will apply.

The application is being referred to Technology Center Art Unit 3764 for further processing.

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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

cc: Russell D. Orkin
The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh PA 15219-1845

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of
Smith & Diaz
Application No.: 09/898,319
Filed: July 2, 2001
Attorney Docket No.: 020699-000310US
For: STORAGE AND RETRIEVAL OF ENCRYPTED CONTENT ON STORAGE MEDIA

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 30, 2002 (certificate of mailing date December 21, 2001).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 2, 2001 without an executed oath or declaration. Accordingly, on August 21, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on January 30, 2002, a declaration executed by Mr. Smith, the surcharge, a request for a two month extension of time and required fee, the petition fee, and the instant petition were filed. A declaration of facts of Fidel D. Nwamu, an attorney of record, accompanied the petition. Attorney Nwamu explains that non-signing joint inventor, Jose Diaz, was mailed a copy of the above-identified application as filed, including specification, claims, drawings, declaration, and assignment, but the application package was returned to Attorney Nwamu unclaimed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1).

As to item (1), applicant has failed to establish that Mr. Diaz has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join,

whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. Attorney Nwamu's declaration indicates that the mailing to Mr. Diaz was returned unclaimed. This fact alone establishes neither diligence in trying to find the missing inventor, nor the inventor's refusal by conduct to join in the filing of the application. Mr. Diaz may have been on vacation or he may have simply forgotten to pick up his mail. Another copy of the application should be mailed to Mr. Diaz's last known address.

Other attempts to reach Mr. Diaz should be attempted. If the papers are returned, and other attempts to locate the inventor, e.g. through e-mail, computer searches (such as LEXIS), or the telephone continue to fail, then applicant will establish that the inventor cannot be reached.

If 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

TOWNSEND AND TOWNSEND AND CREW, LLP
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JUL 1 2 2002

OFFICE OF PETITIONS

In re Application of
Smith & Diaz
Application No.: 09/898,319
Filed: July 2, 2001
Attorney Docket No.: 020699-000310US
For: STORAGE AND RETRIEVAL OF ENCRYPTED CONTENT ON STORAGE MEDIA

DECISION NOTING JOINDER AND PETITION UNDER 37 CFR 1.47(a) DISMISSED AS MOOT

Papers filed on July 9, 2002 (certificate of mailing date July 3, 2002) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on May 3, 2002, included a declaration signed by the previously nonsigning inventor, Jose Diaz, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Technology Center 2100 for further processing.

Inquiries related to this decision may be addressed 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

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Mailed:

In re application of	:	
Takahiko Terada, et al	:	DECISION ON
Serial No. 09/898,338	:	PETITION
Filed: July3, 2001	:	
For: METHOD FOR DEHALOGENATION TREATMENT OF HALOGEN CONTAINING NON-COMBUSTIBLE RESIN COMPOSITION	:	

This is a decision on the PETITION TO CONSIDER INFORMATION DISCLOSURE STATEMENT 37 CFR 1.181, filed December 10, 2004.

DECISION

A review record reveals that the examiner had inadvertently left out his initials next to the two foreign documents namely 2000-117738 and 2000-44966 on the information disclosure statement filed February 19, 2003. This incomplete IDS document was attached to the office action dated 10/10/2003.

The petition is dismissed.

A complete copy of the information disclosure statement filed February 19, 2003, indicating that the two documents 2000-117738 and 2000-44966 have been considered by the examiner, is attached in this communication.

Enclosure: IDS submitted on February 19, 2003 indicating that all references have been considered.

Nam X. Nguyen, SPE
Technology Center 1700
Chemical and Materials Engineering

Suite 301
One Westlakes, Berwyn
P.O. Box 980
Valley Forge, PA 19482-0980
(610) 407-0700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-30-07

Paper No.: ____

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction on Patent No.: 6903242

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:

Nam Nguyen 1795
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 16, 2005

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction on Patent No.: 6,903,796

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ **SPE**

2871 **Art Unit**

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LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

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FEB 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Kovar et al.	:	
Application No. 09/898,379	:	ON PETITION
Filed: 5 July, 2001	:	
Att'y Docket No. 10-342	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on 2 February, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 8 September, 2004, 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)).

failure to timely submit a reply to the non-final Office action mailed on 7 June, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 January, 2005.

Petitioners assert unavoidable delay in filing a timely reply because of a docketing error. Specifically, petitioners allege an error on the part of counsel's Assistant Manager of Administrative Services.

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".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] 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.[5]

Turning to petitioner's assertion of docketing error, a delay resulting from an error (e.g. a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[6]

An adequate showing requires:

(i) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(ii) Petitioner must supply a thorough explanation of the docketing call-up system in use and identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

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[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] See MPEP 711.03(c)(III)(C)(2).

(iii) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The petition lacks the showing required by items (1), (2), and (3) above.

First, petitioners have not discussed the mechanics of the docketing system, or how mail from the USPTO is normally collected and entered into counsel's docketing system. Petitioners should provide statements or declarations of facts by all persons with direct knowledge of, and responsibility for, the docketing processes describing in detail how mail from the USPTO is entered into the docketing system and docketed for reply thereto.

Additionally, petitioners have not provided copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing.

Lastly, petitioners must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks. Petitioners' bare assertion that the docketing system was reliable and the employees sufficiently trained does not constitute a proper showing of unavoidable delay.

In summary, the showing of record does not substantiate petitioners' claim of unavoidable delay. Petitioners have not described in detail the training, supervision, or tasks performed by the Assistant Manager nor provided a statement from that individual. Further, petitioners have not provided a detailed description of counsel's docketing system, or the proper operation thereof. Without a detailed showing of the information requested above, it is not possible for the Office to determine whether the delay was, in fact, unavoidable.

As the showing of record does not rise to the level of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under

37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

The petition fee due under 37 CFR 1.137(a) will be charged to counsel's deposit account, No. 12-0010, as authorized in the fee transmittal accompanying the present 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

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

Enclosure: Form PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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LACASSE & ASSOCIATES, LLC
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SUITE 650
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Kovar et al.	:	DECISION ON PETITION
Application No. 09/898,379	:	
Filed: 5 July, 2001	:	
Atty Docket No. 10-342	:	

This is a decision on the renewed petition under 37 CFR 1.137(a),[1] filed on 18 April, 2005, to revive the above-identified application.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover

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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)).

letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 8 September, 2004, for failure to timely submit a reply to the non-final Office action mailed on 7 June, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 January, 2005. The petition filed on 2 February, 2005, was dismissed on 18 February, 2005.

Petitioners again assert unavoidable delay in filing a timely reply because of a docketing error. Specifically, petitioners allege an error on the part of counsel's Assistant Manager of Administrative Services.

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".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

---

[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

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).[4] 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.[5]

Turning to petitioner's assertion of docketing error, a delay resulting from an error (e.g. a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[6]

An adequate showing requires:

(i) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

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] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] See MPEP 711.03(c)(III)(C)(2).

(ii) Petitioner must supply a thorough explanation of the docketing call-up system in use and identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(iii) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The petition lacks the showing required by item (1) above.

It is noted that petitioners have provided a detailed description of counsel's docketing system and have discussed the training and experience of the employee responsible for docketing the Office action mailed on 7 June, 2004. Petitioners have not provided a statement by Elizabeth Hein, the employee who was responsible for docketing the Office action for reply, however. A statement by the individual who made the alleged error is required as a part of the showing of unavoidable delay. Thus, petitioners should provide an affidavit or declaration of facts, setting forth the circumstances which render the delay in replying to the Office action mailed on 7 June, 2004, unavoidable, by Ms. Hein 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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-05

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Kovar et al.	:	DECISION ON PETITION
Application No. 09/898,379	:	
Filed: 5 July, 2001	:	
Atty Docket No. 10-342	:	

This is a decision on the twice renewed petition under 37 CFR 1.137(a),[1] filed on 25 May, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 8 September, 2004, for failure to timely submit a reply to the non-final Office action mailed on 7 June, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 January, 2005. The petition filed on 2 February, 2005, was

---

[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)).

dismissed on 18 February, 2005. The renewed petition filed on 18 April, 2005, was dismissed on 13 May, 2005.

The application has been restored to pending status.

The application file is being forwarded to Technology Center Art Unit 2633 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 Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 12 2005

COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Catherine Dulac et al	:
Serial No.: 09/898,416	: PETITION DECISION
Filed: July 3, 2001	:
Attorney Docket No.: 0575/48557-A	:

This is in response to the petition under 37 CFR 1.181, filed October 22, 2004, requesting withdrawal of abandonment based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicants on November 19, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on October 6, 2004. Applicants state that the Office action was never received and provide statements and docket reports evidencing non-receipt. In view of thereof 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 mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Granik, et al. : DECISION ON PETITION
Application No. 09/898,431 :
Filed: July 2, 2001 :
Atty. Dkt. No.: MEGC117332 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed August 2, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2100 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12-2-04

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 6752689

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

E. James

Thank You For Your Assistance — **Certificates of Correction Branch**

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

CERTIFICATE OF CORRECTION

PATENT NO. : 6,752,689 B2
DATED : June 22, 2004
INVENTOR(S) : Moshe Finarov

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page,
Item [30], **Foreign Application Priority Data**, delete "133829" and insert therefor -- 113829 --

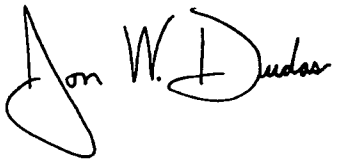
Column 6,
Line 6, delete "water" and insert therefor -- wafer --
Line 17, delete "inspec" and insert therefor -- inspec- --
Line 59, delete "the light" and insert therefor -- a light --
Line 64, delete "a" and insert therefor -- the --

Column 7,
Lines 23 and 40, delete "water" and insert therefor -- wafer --
Line 39, delete "unit" and insert therefor -- units --

Column 8,
Line 39, delete "a" and insert therefor -- the --

Signed and Sealed this

Nineteenth Day of July, 2005



JON W. DUDAS
Director of the United States Patent and Trademark Office

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,752,689 B2
DATED : June 22, 2004
INVENTOR(S) : Moshe Finarov

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

1) ~~Front~~ Title Page, Section (30), delete "133829" and insert therefor --113829--
2) Column 6, line 6 (claim 1, line 13), delete "water" and insert therefor --wafer--
3) Column 6, line 17 (claim 3, line 2), delete "inspec" and insert therefor --inspec- --
4) Column 6, line 59 (claim 16, line 3), delete "the light" and insert therefor --a light--
5) Column 6, line 64 (claim 17, line 4), delete "a" and insert therefor --the--
6) Column 7, line 23 (claim 21, line 14), delete "water" and insert therefor --wafer--
7) Column 7, line 39 (claim 25, line 2), delete "unit" and insert therefor --units--
8) Column 7, line 40 (claim 25, line 3), delete "water" and insert therefor --wafer--
9) Column 8, line 39 (claim 35, line 4), delete "a" and insert therefor --the--

MAILING ADDRESS OF SENDER:
BROWDY AND NEIMARK
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

PATENT NO. 6,752,689 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 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

Paper No. 5

STANLEY B. GREEN
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036-3425

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NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Lawrence Ausubel :
Application No. 09/898,483 : NOTICE
Filed: July 5, 2001 :
Attorney Docket No. 21736-00009

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 3628.

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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Davis et al.	:	
Application No. 09/898,486	:	
Filed: July 5, 2001	:	ON PETITION
Title of Invention:	:	
IMPROVEMENTS IN PACKET	:	
SWITCHES	:	

This is a decision on the Petition Under PTO Rule 1.81 Requesting Withdrawal of the Holding Abandonment Based on Failure to Receive Office Action and Acceptance of Accompanying Payment of the Issue and Publication Fees, filed October 28, 2005. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted in part.**

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Issue Fee Due and Notice of Allowability, mailed May 19, 2005. The Notices set a non-extendable three (3) month period for reply. No reply having been received, the above-identified application became abandoned August 20, 2005. A Notice of Abandonment was mailed October 13, 2005.

Applicant files the instant petition and avers non-receipt of the Notices. In support of this assertion, Applicant files the necessary statements and copies of the docket record where the non-received Notices would have been entered had they been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

Applicant also files responses to the Notice in the form of the issue and publication fees and corrected drawing(s). However,

the corrected drawing filed with the instant petition have been objected to by the Draftsperson.

In view of the above, the petition is granted in so far as the Notice of Abandonment, indicating that the application is abandoned for failure to respond to the Notices, is hereby withdrawn. However, the application is not in condition for allowance.

No petition fee has been charged, and none is due.

The Notice of Abandonment is hereby withdrawn. The application file is being referred to Technology Center Art Unit 2151 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Notice of Draftsperson's Patent Drawing Review

15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Hirohisa A. Tanaka *et al.*
APPLICATION NO.:	09/898,497
FILING DATE:	July 5, 2001
TITLE:	METHOD AND APPARATUS FOR LOCATION-SENSITIVE, SUBSIDIZED CELL PHONE BILLING
EXAMINER:	James S. McClellan
GROUP ART UNIT:	3627
ATTY. DKT. NO.:	20662-07121

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, including the enclosures identified below, is being transmitted via facsimile on the date shown below to: Director, Technology Center 3620, Commissioner for Patents, at the facsimile number of (703) 872-9306.

Dated: February 3, 2004 By: _____
Daniel R. Brownstone, Reg. No. 46,581

COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

UNDER 37 CFR 1.181 AND MPEP § 711.03(C)

A Notice of Abandonment was mailed on December 30, 2003 in the above case, stating that Applicants had not filed a timely response to the Office Action mailed on May 29, 2003.

In reality, Applicants filed a response including a Request for Continued Examination and Response B by facsimile on September 29, 2003. Also included in the submission was authorization to charge the necessary fees to a deposit account. An "Auto-Reply Facsimile Transmission" was generated and faxed back by the PTO, confirming that the entire 12 pages of the submission was received. Copies of the original submission as well as the response fax from the PTO are included with this Petition.

PAGE 3/17 * RCVD AT 2/3/2004 6:22:07 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:+14153950879 * DURATION (mm-ss):05-56

Accordingly, since Applicants filed, and the PTO received, a proper response to the May 29 Office Action, the Office is asked to withdraw the holding of abandonment.

If any additional information is required, please contact the Attorney for Applicants at the telephone number below.

Respectfully submitted,
HIROHISA A. TANAKA *et al.*

Dated: February 3, 2004

By: _____
Daniel R. Brownstone, Reg. No. 46,581
Attorney for Applicants
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2358
Fax: (415) 281-1350

PAGE 4/17 * RCVD AT 2/3/2004 6:22:07 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:+14153950879 * DURATION (mm-ss):05-56

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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Hirohisa A. Tanaka	: DECISION ON REQUEST FOR
Patent Number	: 7668765	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/898,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **748** 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.

10/10/01 Section 8

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → [+]

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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OIPE OCT 09 2001 PATENT & TRADEMARK OFFICE

EL 903200439 US

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/898,533
Filing Date	July 2, 2001
First Named Inventor	Gemmill, Robert M.
Group Art Unit	1653
Examiner Name	
Total Number of Pages in This Submission: 1	Attorney Docket Number: 019269000110

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [X] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [X] Other Enclosure(s) *(please identify below)*:
  - Return Postcard
  - Declaration
  - Statement Under 37 CFR 3.73(b)
  - Small Entity Statement
  - Power of Attorney
  - Request for Transfer of CRF

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Don D. Cha Reg No. 40,945
Signature	Don D. Cha
Date	October 9, 2001

CERTIFICATE OF MAILING

Express Mail Label: EL 903200439 US

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date October 9, 2001 and is addressed to:

Assistant Commissioner for Patents, Washington, D.C. 20231

Typed or printed name	Maisie C. Livengood		
Signature	Maisie C. Livengood	Date	October 9, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

DE 7052455 v1

PTO/SB/17 (09-00)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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FEE TRANSMITTAL for FY 2001

OIPE JC68
OCT 09 2001
PATENT & TRADEMARK OFFICE

Patent fees are subject to annual revision.

Complete if Known	
Application Number	09/898,533
Filing Date	July 2, 2001
First Named Inventor	Gemmill, Robert M.
Examiner Name	
Group Art Unit	1653
Attorney Docket No.	019269-000110US

TOTAL AMOUNT OF PAYMENT ($) 855

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 20-1430

Deposit Account Name: Townsend and Townsend and Crew LLP

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☒ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ **Payment Enclosed:**

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	370
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1) ($)370

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below	=	Fee Paid
Total Claims	20	-20** =	0	X	$9	=	$0
Independent Claims	13	-3** =	10	X	$42	=	$420
Multiple Dependent				X		=	

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)420

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)					

The Commissioner is authorized to charge any additional fees to the above noted Deposit Account.

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($)65

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	Don D. Cha	Registration No. (Attorney/Agent)	40,945	Telephone	303-571-4000
Signature				Date	October 9, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. DE 7052457 v1

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
09/898,533	07/02/2001	Robert M. Gemmill	019269-000110US

CONFIRMATION NO. 7540

FORMALITIES LETTER

OC000000006403962

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OIPE JC87
OCT 09 2001
PATENT & TRADEMARK OFFICE

Date Mailed: 08/09/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

10/15/2001 HTECKLU1 00000003 201430 09898533
01 FC:201 370.00 CH
02 FC:202 420.00 CH
03 FC:205 65.00 CH

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 $800.
  - **$800** for **10** 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 $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1640.**

- 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**

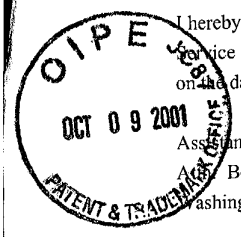
A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

"Express Mail" Label No. EL 903200439 US
Date of Deposit October 9, 2001

PATENT
Attorney Docket No.: 019269-000110US
Client Reference No.: UTC #8062



I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

Assistant Commissioner for Patents
Attn: Box Missing Parts
Washington, D.C. 20231

By: Maisie C. Livengood
Maisie C. Livengood

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Robert M. Gemmill, et al.

Application No.: 09/898,533

Filed: July 2, 2001

For: RC8, A GENE RELATED TO THE HEDGEHOG RECEPTOR, PATCHED

Examiner:

Art Unit: 1653

TRANSMITTAL LETTER – RESPONSE TO NOTICE OF MISSING PARTS

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Nonprovisional Application, dated August 9, 2001, enclosed are the following to be made of record in the above-identified application:

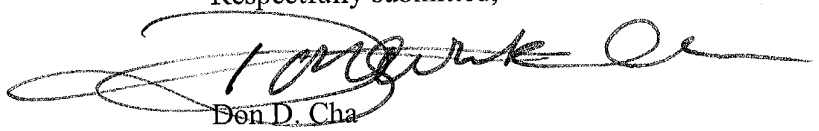
1) Executed Declaration
2) Power of Attorney
3) Certificate of Assignee Under 37 C.F.R. § 3.73(b)
4) Verified Statement Claiming Small Entity Status
5) Copy of Notice of Missing Parts
6) Request for Transfer of Computer Readable Form Under 37 C.F.R. 1.821(e)

Please charge Deposit Account No. 20-1430 for the following fees:

Small Entity:	(a)	Filing Fee (§ 1.16(a)) (Small Entity)	$370.00
	(b)	Excess Claims Fees (§ 1.16(b), (c)):	
		20 - 20 = 0 x $9.00 =	$0.00
		13 - 3 = 10 x $42.00 =	$420.00
	(c)	Missing Parts Surcharge	$65.00
		TOTAL FEES TO BE CHARGED	$855.00

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430. This Transmittal Letter is submitted in triplicate.

Respectfully submitted,



Don D. Cha
Reg. No. 40,945

Customer No. 20350

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415 576-0300
DDC:mcl

DE 7052463 v1

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Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

SEP 18 2007

TECHNOLOGY CENTER 3600

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 South Commercial Street
Manchester, NH 03101

Paper No. 22

In re Patent of Holloway et al.
Patent No. 6,739,633
Issued: May 25th, 2004
For: Fuel Door Lock Actuator

ON PETITION TO CORRECT INVENTORSHIP IN ISSUED U.S. PATENT UNDER 37 CFR 1.324 AND 35 USC 256

This is a decision on Applicant's Petition under 37 CFR 1.324 and 35 USC 256 filed on September 20th, 2004 to correct the inventorship of an issued U.S. patent.

The Petition is **GRANTED.**

The Petitioner has requested that U.S. Patent No. 6,739,633 be corrected by adding William J. Farmer, citizen of the United States of America, as an inventor in the patent. The Petitioner has provided a verified statement from William J. Farmer stating that the error in the inventorship of the patent was made without deceptive intent on his part. The currently named inventor of U.S. Patent No. 6,739,633, John C. Holloway, Thomas P. Schregardus, Henry C. Ruff, and Eric C. Beishline, have provided verified statements indicating no disagreement with the request to add William J. Farmer as an inventor. The Assignee of the instant patent, Stoneridge Control Devices, Inc., has established ownership of the patent and is agreeable to the requested change. The petition fee set forth in 37 CFR 1.20(b) has been paid.

The Office will prepare a Certificate of Correction listing the correct inventor(s): John C. Holloway, Thomas P. Schregardus, Henry C. Ruff, Eric C. Beishline, and William J. Farmer.

SUMMARY: The Petition is **GRANTED.**

Any questions regarding this decision should be directed to Jennifer H Gay at 571-272-7029.

Jennifer H Gay, SPE AU 3676
Technology Center 3600
571-272-7029

SNM/JHG: August 14th, 2007

#15

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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February 2005

3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

FEB 11 2005

In re Application of:
Jeffrey M. Florczak et al.
Serial No.: 09/898,580
Filed: July 3, 2001
Attorney Docket No.: 55320US028

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "Request for Reconsideration of the Holding of Abandonment" filed via facsimile transmission on July 15, 2003. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the non-final Office action mailed on October 21, 2002. A Notice of Abandonment was mailed on July 11, 2003.

Petitioner asserts that a response (an amendment with a petition for a two-month extension of time) was timely mailed to the U.S. Patent and Trademark Office (USPTO) on March 21, 2003 via the procedure set forth in 37 C.F.R. § 1.8. The evidence provided by the petitioner includes a statement which attests upon a personal knowledge basis to the previous mailing of the response on March 21, 2003. A copy of the response was sent in to the USPTO via facsimile transmission on June 26, 2003. The copy of the response contains the required certificate of mailing (dated March 21, 2003) under 37 C.F.R. § 1.8 (a)(1)(ii). The evidence is sufficient under 37 C.F.R. § 1.8 (b) to establish that the response was timely filed.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed July 11, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response filed on June 26, 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 processing of the response. Deposit Account No. 13-3723 will be charged $410.00, i.e., the fee for a two-month extension of time at the time the response was filed.

Thereafter, the application file will be forwarded to the examiner for preparation of an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Huffman Law Group, P.C.
1832 N. Cascade Avenue
Colorado Springs, CO 80907-7449

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry, et al. :
Application No. 09/898,583 : DECISION ON PETITION
Filed: July 3, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CNTR:2020 :

This is a decision on the petition, filed July 25, 2005, 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 November 2, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 2183 for examination in due course.

Marianne Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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APR 14 2006

OFFICE OF PETITIONS

In re Patent No. 6,963,350	:	
Perani et al.	:	DECISION ON REQUEST
Issue Date: November 8, 2005	:	FOR RECONSIDERATION OF
Application No. 09/898,653	:	PATENT TERM ADJUSTMENT
Filed: July 3, 2001	:	and
Atty Docket No.07844-507001/	:	NOTICE OF INTENT TO ISSUE
P470	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed Monday, January 9, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 381 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 three hundred eighty-one (381) days.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,963,350. The instant request for reconsideration filed, Monday, January 9, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 309 days. Patentees contend that there were no circumstances within this case history that constitute a failure by the Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in

37 CFR § 1.704. Patentees dispute the reduction of 72 days associated with the filing of a "miscellaneous incoming letter" received in the Office on August 29, 2005. Patentees state that the paper filed was a "Response to Notice of Allowance," which included the issue fee payment and the Issue Fee Transmittal, and thus, no reduction is warranted.

Patentees' contention is well taken. The OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

In view thereof, the patent term adjustment indicated on the patent should be three hundred eight-one (381) days.

The Office acknowledges submission of 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 THREE HUNDRED EIGHTY-ONE (381) 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 : 6,963,350 B1

DATED : **November 8, 2005**

INVENTOR(S) : Perani 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 (309) days

Delete the phrase "by 309" and insert – by 381 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
William Elmer Kish :
Application No. 09/898,686 : DECISION ON PETITION
Filed: July 2, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of January 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3688 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 11-01

Paper No. 4

MARGER JOHNSON & MCCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

COPY MAILED

NOV 0 5 2001

OFFICE OF PETITIONS

In re Application of	:
Lee and Koo	:
Application No. 09/898,699	: DECISION REFUSING STATUS
Filed: 2 July, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 9898-176	:

This is in response to the petition filed under 37 CFR 1.47(b) on 15 October, 2001, which has been treated as a petition under 37 CFR 1.47(a).[1]

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 2 July, 2001, without an executed oath or declaration.

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

Accordingly, on 22 August, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. A two (2)-month period for reply was set.

In response, on 15 October, 2001, the present petition was filed, accompanied by the basic filing fee, the petition fee and surcharge, and a declaration naming Dong-woo Lee and Ja-il Koo as joint inventors and signed by joint inventor Koo on behalf of himself and joint inventor Lee.

Petitioners state that the non-signing inventor cannot be located.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that diligent efforts have been made to locate the non-signing inventor.[2] Petitioners state than an affidavit and other correspondence detailing the diligent efforts made to locate the non-signing inventor was filed with the present petition. A review of the official record reveals, however, that no affidavit or other correspondence documenting the efforts made to reach the non-signing inventor are been located among the papers received on 15 October, 2001. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[3] Petitioners should provide a copy of the cover letter

---

[2]MPEP 409.03(d).

[3]MPEP 409.03(d).

transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event that the application is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 03-02

Paper No. 6

MARGER JOHNSON & MCCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

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MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Lee and Koo	:	
Application No. 09/898,699	:	DECISION ACCORDING STATUS
Filed: 2 July, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 9898-176	:	

This is in response to the communication titled "Applicant's Reply to Decision" filed by facsimile on 1 March, 2002 (certificate of mailing date 17 December, 2001), which is treated as a renewed under 37 CFR 1.47(a).[1]

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown that a copy of the application sent to the non-signing inventor's last known address was returned as undeliverable by the Korean Post Office. The declaration of facts by petitioners' registered patent counsel, Gregory Kavounas, establishes that despite attempts made to locate the non-signing inventor, the inventor could not be located.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 03-02

Ja-il Koo
1-1104, Samhwan Apt.
Garak-dong, Songpa-gu
Seoul
REPUBLIC OF KOREA

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MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of
Lee et al.
Application No. 09/898,699
Filed: 2 July, 2001
For:MEMORY DEVICE HAVING DEPTH COMPARE-WRITE FUNCTION AND METHOD FOR DEPTH COMPARE-WRITE USED BY THE MEMORY DEVICE

Dear Mr. Koo:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MARGER JOHNSON & MCCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

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7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN TX 78731

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JAN 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,062,493	:	
Issue Date: June 13, 2006	:	
Application No. 09/898,708	:	ON PETITION
Filed: July 3, 2001	:	
Attorney Docket No. 027-0006	:	

This is a decision on the PETITION FOR ISSUANCE OF AN APPLICATION IN THE NAME OF THE ASSIGNEE UNDER 37 C.F.R. § 3.81 filed October 17, 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**.

Petitioner states that the assignee was inadvertently identified as "Trilogy Software, Inc." on form PTOL-85B, and requests that a Certificate of Correction be issued identifying the correct assignee, "Trilogy Development Group, Inc." Petitioner submits a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the above-identified application to Trilogy Development Group, Inc., was submitted for recording in the Office on July 13, 2001 before issuance of the patent (Reel/Frame 011970/0834) on June 13, 2006. This was also prior to payment of the Issue Fee on March 2, 2006.

Receipt of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

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[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 7

RONALD C. FEDUS
ENZO THERAPEUTICS, INC.
C/O ENZO BIOCHEM, INC.
527 MADISON AVENUE, 9TH FLOOR
NEW YORK, NY 10022

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OCT 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James G. Wetmur et al :
Application No. 09/898,750 :
Filed: July 3, 2001 :
Attorney Docket No. Enz-49(P2)(C) :

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed August 8, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 9, 2001.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 1656 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006

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Paper No. 16

STEVEN J. SARUSSI
MCDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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JAN 23 2004
OFFICE OF PETITIONS

In re Application of	:	
Philip Needleman	:	
Application No. 09/898,772	:	ON PETITION
Filed: July 2, 2001	:	
Attorney Docket No. 01-481-D	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed April 1, 2003. Accordingly, this application became abandoned on July 2, 2003. A Notice of Abandonment was mailed on December 3, 2003.

The file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,823,444 :
Issued: November 23, 2004 :
Application No. 09/898,832 : DECISION GRANTING PETITION
Filed: July 3, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CNTR.2024 :

This is a decision on the petition, filed July 25, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 2, 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.

This application matured into Patent No. 6,823,444 on November 23, 2004. Therefore, no further action is required.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CHICAGO, IL 60661

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Gottfried Ungerboeck, et al. :
Application No. 09/898,850 : ON PETITION
Filed: July 3, 2001 :
Attorney Docket No.: 13226US02 :
:

This is a decision on the petition, filed September 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 15, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2634 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Yutaka Kawakami, et al. :
Application No. 09/898,860 : ON PETITION
Filed: July 3, 2001 :
Attorney Docket No. 2026-4124US5 :

This is a decision on the petition, filed May 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114 filed May 24, 2004.

/Sherry D. Brinkley/

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 11, 2006

TO SPE OF : ART UNIT ~~3762~~ 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/898880 Patent No.: 7,005,557

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: _____

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1616

SPE 1616 **Art Unit**

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :

HABER, Anthony et al. :
Application No. 09/898,896 : DECISION ON PETITION
Filed: July 03, 2001 : TO WITHDRAW
Attorney Docket No. **4606P004** : 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 13, 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 Paul Mendonsa on behalf of all attorneys of record who are associated with customer number 08791. 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 address 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 October 17, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANTHONY HABER**
1138 SW TOBIAS WAY
BEAVERTON, OR 97006

cc: **GOODWIN PROCTER LLP**
599 LEXINGTON AVE.
NEW YORK, NY 10022

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PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Patent No. 6,754,884 :
Issue Date: June 22, 2004 :
Application No. 09/898,898 : DECISION GRANTING PETITION
Filed: July 2, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **109870-130091** :

This is a decision on the petition, filed February 5, 2005 and resubmitted February 22, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to 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 under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 28, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The petition fee in the amount of $1500.00 has been charged to deposit account no.50-0393 as authorized by the petition.

This application matured into Patent No. 6,754,854 on June 22, 2004, therefore, there is no further action required.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 7

Jeffrey A. Miller
LYON & LYON LLP
Suite 4700
633 W. Fifth Street
Los Angeles, CA 90071

MAIL

OCT 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Johannes W.F. Majoor)
Application No. 09/898,908)
Filed: July 3, 2001) **DECISION ON REQUEST FOR**
For: MECHANISM AND METHOD FOR SPECIFIED TEMPORAL DEPLOYMENT OF RULES WITHIN A RULE SERVER) **WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed September 16, 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 September 16, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Lori Eldridge
FAIR, ISAAC, INC. AND HNC SOFTWARE
200 Smith Ranch Road
San Rafael, CA 94903

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OCT 17 2003

Paper No. 11

In re Application of : DECISION ON PETITION
Jack V. Smith :
Application No. 09/898,958 :
Filed: July 3, 2001 :
For: Inflatable Box

This is a decision on the petition filed on September 22, 2003 by which petitioner requests withdrawal of the holding that this application is abandoned for "failure to reply to the Office letter dated March 20, 2003." No fee is required for the petition, because the petition is being considered under 37 CFR 1.181.

The petition is granted.

Initially, it is noted that the application should technically have been held to have become abandoned for failure to file a timely reply to the Office letter dated **November 18, 2003**. The record shows that a reply to that Office letter was in fact received in the Office on March 11, 2003, and was entitled to a date of March 3, 2003 by reason of a 37 CFR 1.8(a) certificate of mailing affixed thereto. However, March 3, 2003 was more than three months subsequent to November 18, 2002, and therefore the reply was not timely filed.

The March 20, 2003 date refers to the examiner's letter dated March 20, 2003 by which the examiner informed petitioner that the March 11, 2003 reply (certificate of mailing dated March 3, 2003) was untimely. .However, petitioner has attached to the petition a copy of a request for a two month extension of time that was filed in reply to the March 20, 2003 letter. The request for a two month extension has a 37 CFR 1.8(a) certificate of mailing affixed thereto dated April 15, 2003, within the three month period set by the November 18, 2002 Office letter, as extended by two months. In addition, petitioner has furnished a copy of the filing receipt for the extension of time request, which shows actual receipt in the Office of this paper on April 15, 2003. Moreover, the extension of time request is paper No. 8 of record in the application, and is for a two month request, not one month as erroneously noted thereon. Paper No. 8 shows that the extension fee was also received by the Office.

In summary, it is clear from the evidence submitted by petitioner, and from the record, that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on March 11, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Jack V. Smith
P.O. Box 156
Arden, NC 28704

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JACK V. SMITH
P.O. BOX 156
ARDEN NC 28704

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
Jack V. Smith
Application No. 09/898,958
Filed: July 3, 2001
Title of Invention: **INFLATABLE BOX**

: DECISION ON PETITION

This is a decision on the petition filed November 13, 2007 under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) 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(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed September 29, 2005 setting the longer of one month or 30 days for reply. No response having been filed, a Notice of Abandonment was mailed July 6, 2006.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment be used as the submission required under 37 CFR 1.114.

As well additional independent claims were submitted. However, the credit card used to pay the fees associated with the instant petition, RCE and independent claims was

---

[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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JACK V. SMITH
P.O. BOX 156
ARDEN NC 28704

COPY MAILED

APR 23 2008

In re Application of :
Jack V. Smith : DECISION ON PETITION
Application No. 09/898,958 :
Filed: July 3, 2001 :
Title of Invention: **INFLATABLE BOX** :

This is a decision on the renewed petition filed March 25, 2008 under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) 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(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed September 29, 2005 setting the longer of one month or 30 days for reply. No response having been filed, a Notice of Abandonment was mailed July 6, 2006. On November 13, 2007 a petition to revive was filed with a Request for Continued Examination (RCE) requesting that the previously filed amendment be used as the submission required under 37 CFR 1.114. As well, additional independent claims were submitted. However, the credit card used to pay the fees associated with the instant petition, RCE and independent claims was deficient by $20. Since no authorizations for debiting a deposit account for any deficiencies had been granted, the petition was not grantable and a decision dismissing the petition was mailed February 28, 2008.

---

[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)).

Comes now petitioner with the instant renewed petition noting that PTO Form 2038 was to be enclosed to pay the balance of the fees due.

No such form has been found amongst the papers included with the renewed petition. In fact, the petition filed March 25, 2008 is entitled "Request for Reconsideration of Petition Under 37 CFR 1.47." At no time was the petition that was dismissed February 28, 2008 filed under 37 CFR 1.47.

In view thereof and in the absence of payment of the $20, previously deficient, for the payment of independent claims, this petition to revive is still not grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this 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

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JACK V. SMITH
P.O. BOX 156
ARDEN NC 28704

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JUN 0 9 2008

OFFICE OF PETITIONS

In re Application of
Jack V. Smith
Application No. 09/898,958
Filed: July 3, 2001
Title of Invention: **INFLATABLE BOX**

: DECISION ON PETITION

This is a decision on the renewed petition filed May 19, 2008 to revive the above-identified application, incorrectly titled under 37 CFR 1.47(a), but is treated under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137 (b) is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed September 29, 2005 setting the longer of one month or 30 days for reply. No response having been filed, a Notice of Abandonment was mailed July 6, 2006. On November 13, 2007 a petition to revive was filed with a Request for Continued Examination (RCE) requesting that the previously filed amendment be used as the submission required under 37 CFR 1.114. As well, additional independent claims were submitted. However, the credit card used to pay the fees associated with the instant petition, RCE and independent claims was deficient by $20. Since no authorizations for debiting a deposit account for any deficiencies had been granted, the petition was not grantable and a decision dismissing the petition was mailed February 28, 2008.

A renewed petition was filed March 25, 2008 noting that PTO Form 2038 was to be enclosed to pay the balance of the fees due however, no such form was found amongst the papers included with the renewed petition and therefore, the petition was dismissed in a decision mailed April 23, 2008.

---

[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)).

For clarification of the record, this matter is not and never was considered under 37 CFR 1.47, and the fee deficiency was not for the petition fee under 37 CFR 1.137(b) but rather was for a deficiency in the payment of the independent claims.

The fee deficiency having been satisfied with the instant request for reconsideration, this matter is being referred to Technology Center 3728 for processing of the RCE filed November 13, 2007 and the previously filed amendment as the submission required under 37 CFR 1.114.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: JAN - 9 2002

Paper No. 6

In re Application of Ramesh Lhila et al.
Serial No.: 09/898,969
Filed: July 3, 2001
For: ACRYLIC FOAM-LIKE TAPE

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed October 15, 2001 to correct inventorship under 37 CFR 1.48(a) by adding the names of Kwang-Yol Park and Kaila Delpozzo to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

BLRC

Blaine R. Copenheaver
Supervisory Patent Examiner
Technology Center 1700

Mary-Jacq Holrovd, Esq.
McCormick, Paulding & Huber LLP
City Place II
185 Asylum Street
Hartford, CT 06103-4102

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McCORMICK PAULDING & HUBER
CITY PLACE II
185 ASYLUM STREET
HARTFORD, CT 06103-3402

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Ramesh Lhila :
Application No. 09/898,969 : ON PETITION
Filed: July 3, 2001 :
Attorney Docket No. 6001-44-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record discloses that a final Office action was mailed on March 31, 2004, setting a three month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefor, a reply, with the appropriate extension of time fee, was due on or before September 31, 2004. An amendment, fee for a three month extension of time, and the Notice of Appeal with $330 fee were received in the U.S. Patent and Trademark Office (USPTO) on September 30, 2004. Pursuant to the provisions of 37 CFR 1.192(a), the Appeal Brief is due two months from the date of filing of the Notice of Appeal, which in this case, is November 30, 2004. However, pursuant to the provisions of 37 CFR 1.136(a), extensions of time up to five months are available. Therefore, the Appeal Brief, with the appropriate extension of time fee, is due on or before April 30, 2005. A fee for a one month extension of time and the Appeal Brief with $500 fee were received in the USPTO on December 10, 2004. According, since this case was not in fact abandoned at the time of filing the instant petition, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the petition to revive fee of $1500 submitted therewith is unnecessary. Accordingly, as authorized, the above fee will be credited to petitioner's Deposit Account No. 13-0235.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1771.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,986	07/03/2001	Shunpei Yamazaki	07977/163003/US3375D1D1	3065

26171 7590 12/22/2004

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

EXAMINER	
SCHILLINGER, LAURA M	

ART UNIT	PAPER NUMBER
2813	

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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William G. Hughes, Jr. Esquire
Fish & Richardson P.C.
1425 K Street, N.W., 11th Floor
Washington, DC 20005-3500

DEC 20 2004

In re Application of Yamazaki et al.	:	
Application Number : 09/898,986	:	DECISION ON
Filed: July 3, 2001	:	PETITION TO
Attorney Docket Number: 07977-163003	:	WITHDRAW
For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME	:	ABANDONMENT

This decision is in response to petitioner's "PETITION UNDER 37 C.F.R. § 1.181 TO REVIVE UNAVOIDABLY ABANDONED APPLICATION" filed 18 December 2003 and resubmitted 20 July 2004, to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above-identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED** to the extent indicated below.

The petitioner received an Advisory Action from the Office on July 23, 2003. A pursuant telephone interview with the examiner resulted in a decision to further review the merits of the outstanding Office Action. The application was unavailable to the examiner during the file electronic conversion process. A Notice of Abandonment was issued for the application on November 26, 2003 when the application resurfaced. Although the petitioner is responsible for maintaining the status of the application, no dialogue could be held because of the unavailability of the application. The petitioner despite his diligence was not afforded the opportunity to address the merits of the application in a timely manner.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and Optical Systems and Components

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JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
McLEAN, VA 22101

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Gary P. Cote
Application No. 09/899,029
Filed: July 6, 2001
Attorney Docket No.

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 July 25, 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 James C. Wray on behalf of all attorneys of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request states that the correspondence address is not affected by this withdrawal. However, it would not be appropriate to continue to mail correspondence to the address of James C. Wray in view of this decision granting the request to withdraw all the attorneys of record. Accordingly, all future correspondence will be mailed to the sole inventor. If applicant desires to be represented by counsel, then the appropriate power of attorney documents must be submitted.

A non-final rejection was mailed on July 9, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Gary P. Cote
67 Beach Street
Fitchburg, MA 01420

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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
09/899,029	07/06/2001	Gary P. Cote	

CONFIRMATION NO. 6055

OC000000025850384

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

Date Mailed: 09/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2007.

- 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.

K. Brabinet

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
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Paper No. 14

Kenneth S. Watkins, Jr.
372 River Drive
Dahlonega, GA 30533

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Constance E. Lewis :
Application No. 09/899,079 :
Filed: July 5, 2001 :
Attorney Docket No. LEW-01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 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 July 3, 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 October 4, 2002.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

Receipt is acknowledged of the Power of Attorney and Supplemental Declaration filed with the instant petition on March 12, 2007. The office records will be corrected accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 3700, Art Unit 3727.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

GJS 2752-50

OIPE JC68 DEC 12 2001 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/899,082	07/06/2001	Geert Maertens	2752-50

DOCKETED

CONFIRMATION NO. 7439

FORMALITIES LETTER

OC000000007156755

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Rd.
Arlington, VA 22201-4714

CLT/MATTER # 2752-50
MAIL DATE 12-5-01
DUE DATE Feb 5, 2002
FINAL DEADLINE July 5, 2002
DOCKETED BY PSM MS

Date Mailed: 12/05/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - are not on the correct size paper (see 37 CFR 1.84(f)) The size of the sheets on which drawings are made must be either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm (8 ½ by 11 inches);

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

AA

03CD

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC68 DEC 12 2001 PATENT & TRADEMARK OFFICE

In re Patent Application of: Atty Dkt. 2752-50
C# M#

Maertens et al Group Art Unit:

Serial No. 09/899,082 Examiner:

Filed: July 6, 2001 Date: December 12, 2001

Title: PROCESS FOR TYPING OF HCV ISOLATES

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment **0** minus highest number previously paid for **20** (at least 20) = 0 x $ 18.00	$	0.00
Independent claims after amendment **0** minus highest number previously paid for **3** (at least 3) = 0 x $ 84.00	$	0.00
If proper multiple dependent claims now added for first time, add $280.00 (ignore improper)	$	0.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) ($110.00/1 month; $400.00/2 months; $920.00/3 months)	$	0.00
Terminal disclaimer enclosed, add $ 110.00	$	0.00
☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) ($740.00) ☐ Please enter the previously unentered , filed ☐ Submission attached	$	0.00
Subtotal	$	**0.00**
If "small entity," then enter half (1/2) of subtotal and subtract ☐ Applicant claims "small entity" status. ☐ Statement filed herewith	-$	0.00
Rule 56 Information Disclosure Statement Filing Fee ($180.00)	$	0.00
Assignment Recording Fee ($40.00)	$	0.00
Other: Copy of Notice to File Corrected Application Papers; 14 sheets of drawings		**0.00**
TOTAL FEE ENCLOSED	$	**0.00**

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
BJS:eaw

NIXON & VANDERHYE P.C.
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: BJ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 30 2002
TECH CENTER 1600/2900
1634
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MAY 29 2002
TECH CENTER 1600/2900

In re Patent Application of

Atty Dkt: 2752-50
C# M#

Maertens et al

Group Art Unit: 1634

Serial No. 09/899,082

Examiner: WHISENANT

Filed: July 6, 2001

Date: May 28, 2002

Title: PROCESS FOR TYPING OF HCV ISOLATES

PATENT & TRADEMARK OFFICE
MAY 28 2002
JC98

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment **0** minus highest number previously paid for **20** (at least 20) = 0 x $ 18.00	$	0.00
Independent claims after amendment **0** minus highest number previously paid for **3** (at least 3) = 0 x $ 84.00	$	0.00
If proper multiple dependent claims now added for first time, add $280.00 (ignore improper)	$	0.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) ($110.00/1 month; $400.00/2 months; $920.00/3 months)	$	400.0
Terminal disclaimer enclosed, add $ 110.00	$	0.00
☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) ($740.00) ☐ Please enter the previously unentered , filed ☐ Submission attached	$	0.00
Subtotal	$	**400.00**
If "small entity," then enter half (1/2) of subtotal and subtract ☐ Applicant claims "small entity" status. ☐ Statement filed herewith	-$	0.00
Rule 56 Information Disclosure Statement Filing Fee ($180.00)	$	0.00
Assignment Recording Fee ($40.00)	$	0.00
Other: Amendment and copy of U.S. patent nos. 5846704, 6051696 & 6171784; copy of claims of copending application Serial Nos. 09/378,900, 09/899,302 & 09/899,044		**0.00**
TOTAL FEE ENCLOSED	$	**400.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
BJS:b

NIXON & VANDERHYE P.C.
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: B Sadoff

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mailed: AUG 11 2004

BC
Paper Number:

In re application of
Kazuo Saito et al.
Serial No. 09/899,107
Filed: July 6, 2001
For: FUEL CELL SEPARATOR, PROCESS FOR PRODUCTION THEREOF, AND POLYMER ELECTROLYTE FUEL CELL

DECISION ON PETITION

This is a decision on the PETITION under 37 CFR 1.181 filed on December 4, 2003 requesting that the Commissioner instruct the examiner to allow the above identified application. Alternatively, it is requested that the Commissioner instruct the examiner to close prosecution on the merits under the practice provided for in *Ex parte Quayle* and MPEP 706.07(f). In further alternative, it is requested that the Commissioner withdraw the finality of the final Office action mailed on June 5, 2003 and issue a new non-final Office action identifying those grounds of rejection not yet overcome. The PETITION further requests a refund of all extension fees, all notice of appeal fees, all brief filing fees and every other fee of any kind, paid in the past or in the future, because of the apparent loss of the certified translation of a certain priority document timely filed in the PTO but apparently never matched with the official PTO file in the above identified application.

DECISION

While the Office attempts to promptly match incoming communications with the application file in a timely manner, there are those instances where delays do occur, as in the instant application. In the present application, once the certified translation of the foreign priority document was matched and entered into the official PTO application file, the examiner promptly withdrew the finality of the final Office action of June 5, 2003 and issued a non-final Office action on April 6, 2004 based on new prior art discovered during an expanded and updated search. Accordingly, the Petitioner's requests that the examiner be instructed to allow the above identified application or close prosecution can not be granted in view of the currently pending grounds of rejections set forth in the non-final Office action of April 6, 2004. Additionally, the request that a new non-final Office action be issued is now moot in view of the non-final Office action mailed on April 6, 2004.

The request for refund does not meet the requirements of 37 CFR 1.26 or MPEP 607.02. The applicants payment of extension of time fees and notice of appeal fee is deemed to be the diligence required to avoid abandonment of the application after a Final rejection is issued. Accordingly, the request for refund cannot be granted.

This Petition is **DENIED**.

This application is currently awaiting a response from the applicants in reply to the non-final Office action mailed on April 6, 2004.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Gerald M. Murphy, Jr.
Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

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Paper No. 8

ZITO TLP
26005 RIDGE ROAD
SUITE 203
DAMASCUS MD 20872

MAIL

MAY 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Eric Jensen
Application No. 09/899,128
Filed: July 6, 2001
For: WIRELESS SYSTEM SIGNAL PROPAGATION COLLECTION AND ANALYSIS

DECISION ON PETITION

This is a response to the Petition for Withdrawal of the Holding of Abandonment, filed December 22, 2003, pursuant to 37 CFR §1.181. No fee is required.

Petitioner alleges that Applicant timely filed a response to a Notice to File Missing Parts mailed August 22, 2001. To support this allegation, Petitioner provides a copy of an executed declaration along with a post-card which itemizes the executed declaration, date-stamped as received by the U.S. Patent and Trademark Office on September 7, 2001. In addition to the provision of the executed declaration and post-card receipt, Petitioner also provides copies of the Notice to File Missing Parts and Notice of Abandonment.

However, a review of the application reveals that there was no Notice of Abandonment mailed for the subject application. A review of the Notice of Abandonment provided by Petitioner reveals that said Notice referenced a different application number. The application relating to the subject petition in fact has an outstanding Office action, mailed January 5, 2004.

Accordingly, the petition is ***Dismissed as Moot***.

The application is being returned to the Technology Center 2600's central files to await a response to the outstanding Office action.

Any request for reconsideration must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment."

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

MAY 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ZITO TLP
26005 RIDGE ROAD, SUITE 203
DAMASCUS, MD 20872

In re Application of
Eric Jensen
Application No. 09/899,128
Filed: July 6, 2001
For: **WIRELESS SYSTEM SIGNAL PROPAGATION COLLECTION AND ANALYSIS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed March 18, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a), and supplemented via facsimile submissions on May 9, 2005. The facsimile submissions include a signed copy of Applicant's reply. 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 February 8, 2005.

Petitioner asserts that a proper response was timely filed on March 17, 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 March 17, 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 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

CC: Duane Morris LLP
1667 K Street N.W., Suite 700
Washington D.C. 2006-1608

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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SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA
CANADA

COPY MAILED

MAY 23 2006

OFFICE OF PETITIONS

In re Patent of :
Hunt :
Patent No. 6,944,803 :
Issue Date: September 13, 2005 : Decision on Petition
Application No. 09/899,150 :
Filing Date: July 6, 2001 :
Attorney Docket No. 51647-3 :

This is a decision on the petition under 37 CFR 1.182, filed March 27, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Office of Patent Publications is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Patent Publications for issuance of a duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige (FAX 571-273-9756)

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.

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

OCT 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Reinhard Joho :
Application No. 09/899,160 :
Filed: July 6, 2001 :
Attorney Docket No. 033275-231 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(3), filed by facsimile transmission on October 22, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

Petitioner requests that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The petition is **GRANTED**.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The file will be forwarded to Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Finnegan, Henderson, Farabow, Garret & Dunner LLP
901 New York Avenue NW
Washington, DC 20001

8/5/08

In re Application of:
Jean-Louis H. Gueret
Serial No.: 09/899,182
Filed: Jul. 6, 2001
Docket: 5725.0701
Title: Notched Brush and Make-Up Device Including This Brush

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed Jun. 20, 2008 to review the withdrawal of at least claims 85-87, 90-124, 128-130, 133-167, 171-198, 204-230, 234-261, 267-293, 302-307, 314-319, and 326-331 from consideration made in the Feb. 20, 2008 Office action. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the Jun. 20, 2008 petition, petitioner requests the examiner to reconsider the withdrawal of at least claims 85-87, 90-124, 128-130, 133-167, 171-198, 204-230, 234-261, 267-293, 302-307, 314-319, and 326-331 from consideration made in the Feb. 20, 2008 Office action. The petitioner contends that these claims either read on the elected species or were not subject to any of the species election requirements of the Mar. 22, 2006 Requirement for Restriction/Election.

After consulting with the examiner, it was agreed that claims 85-87, 90-124, 128-130, 133-167, 171-198, 204-230, 234-261, 267-293, 302-307, 314-319, and 326-331 should be rejoined. An Office action on the merits including the rejoined claims will follow in due course. Therefore, the request to review the withdrawal of claims 85-87, 90-124, 128-130, 133-167, 171-198, 204-230, 234-261, 267-293, 302-307, 314-319, and 326-331 is hereby granted.

The application is being forwarded to the examiner via his Supervisory Patent Examiner for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Leydig, Voit & Mayer, Ltd.
700 Thirteenth Street, NW
Suite 300
Washington, DC 20005-3960

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Shigeru Matsuno, et. al.
Application No. 09/899,183
Filed: July 6, 2001
Attorney Docket No. 401278

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 8, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of inventors will be changed as follows:

1. Shigeru Matsuno
2. Takehiko Sato
3. Akira Yamada
4. Masayoshi Tarutani
5. Mikio Yamamuka
6. Tsuyoshi Horikawa
7. Takaaki Kawahara
8. Fusaoki Uchikawa

The above-identified application is being forwarded to Technology Center Art Unit 1763, for examination of the amendment filed with the instant petition on January 8, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Minoru Akita et al :
Application No. 09/899,219 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. 210767US2

This is a decision on the petition, filed July 18, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

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. 11

FINNEGAN, HENDERSON, FARABOW,
GARRETT AND DUNNER
Franklin Square Bldg., Suite 700
1300 I Street, N.W.
Washington DC 20005-3315

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FEB 1 2002

OFFICE OF PETITIONS

In re Application of	:
Evi Kostenis	: DECISION GRANTING
Application No. 09/899,295	: PETITION
Filed: July 6, 2001	:
Attorney Docket No. 2481.1745	:

This is a decision on the petition filed December 10, 2001, requesting that the above-identified application be accorded a filing date of July 6, 2001 with Figures 1-7 as part of the original disclosure.

On July 6, 2001, the above-identified application was deposited. The application included, inter alia, 50 pages of specification including 170 claims, a transmittal letter (3 pages), a check for the filing fee, and a certified copy of German Patent Application No. 10033352.2 to which a claim for foreign priority under 35 U.S.C. 119 is stated on the second page of the transmittal letter. No drawings other than the drawings contained in the German priority document accompanied the original application papers. Accordingly, on September 18, 2001, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings necessary for an understanding of the invention and an executed oath or declaration covering the drawings. The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on November 19, 2001, petitioner submitted, inter alia, seven (7) sheets of drawings containing Figures 1-7 and an executed declaration and surcharge together with a paper styled "Response to Notice of Incomplete Nonprovisional Application." The response requested that the "drawings be made of official record in the above-identified application." The application was accorded a filing date of November 19, 2001 based on the seven sheets of drawings petitioner submitted that day.

On November 29, 2001, the Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating that the application has been accorded a filing date of November 19, 2001 and requiring substitute drawings in compliance with the margin requirements of 37 CFR 1.84.

On December 10, 2001, inter alia, the present petition including an authorization to charge the present petition fee to counsel's deposit account was filed. In a telephone communication with USPTO Legal Advisor, James Engel, petitioner was informed of a delay in locating the petition. In response, a copy of the petition was supplied by facsimile on December 14, 2001. Prior to mailing this decision the original petition was located and placed in the application file.

Petitioner requests that the application be accorded a filing date of July 6, 2001 with Figures 1-7 as part of the original disclosure. In support, petitioner cites the fact that Figures 1-7 were present in the German priority document that accompanied the original application papers deposited in the Office on July 6, 2001.

A review of the record reveals that the German priority document includes a specification, claims and seven (7) sheets of drawings containing Figures 1-7. The present petition is accompanied by a copy of those drawings. It is noted that the seven sheets of drawings submitted with petitioner's November 19, 2001 response is also based on a copy of the drawings from the German priority document.

Seven sheets of drawings containing Figures 1-7 are included in the German priority document that was present among the original application papers deposited on July 6, 2001. Accordingly, on petition, a copy of those drawings will be construed as the drawings necessary for this application for filing date purposes.

In view of the above, the petition is granted. The seven sheets of drawings submitted with the petition will be used as the drawings for filing date purposes.

The drawings submitted on November 19, 2001 are considered withdrawn and will not be entered or used during the prosecution of this application.

Since the drawings that were evaluated for compliance with the requirements of 37 CFR 1.84 are withdrawn, the Notice mailed November 29, 2001 is hereby vacated.

A review of the declaration that accompanied the November 19, 2001 response reveals that it specifically references the application specification, as filed, to the exclusion of any reference to the drawings. Therefore, the declaration does not execute the application including the seven sheets of drawings. Accordingly, a newly executed oath or declaration in compliance with 37 CFR 1.63, referencing the entire application (including the drawings), and identifying the specification to which it is directed is required.

Applicant is given TWO MONTHS from the date of this decision to file the oath or declaration complying with 37 CFR 1.63 and referencing the drawings as required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of the Initial Patent Examination Division.

The application is being returned to Office of Initial Patent Examination for:

(1) correction of the filing date to July 6, 2001, using the application papers filed July 6, 2001, and the seven sheets of drawings containing Figures 1-7 supplied December 10, 2001;

(2) an indication in the bibliographic data for this application that seven (7) sheets of drawings were present on filing, and

(3) awaiting any oath or declaration in response to this decision.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

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FEB 05 2002
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

FINNEGAN, HENDERSON, FARABOW,
GARRETT AND DUNNER
Franklin Square Bldg., Suite 700
1300 I Street, N.W.
Washington DC 20005-3315

COPY MAILED
FEB 1 2002
OFFICE OF PETITIONS

RECEIVED
AUG 2 6 2002
TECH CENTER 1600/2900

In re Application of
Evi Kostenis
Application No. 09/899,295
Filed: July 6, 2001
Attorney Docket No. 2481.1745

: DECISION GRANTING
: PETITION

This is a decision on the petition filed December 10, 2001, requesting that the above-identified application be accorded a filing date of July 6, 2001 with Figures 1-7 as part of the original disclosure.

On July 6, 2001, the above-identified application was deposited. The application included, inter alia, 50 pages of specification including 170 claims, a transmittal letter (3 pages), a check for the filing fee, and a certified copy of German Patent Application No. 10033352.2 to which a claim for foreign priority under 35 U.S.C. 119 is stated on the second page of the transmittal letter. No drawings other than the drawings contained in the German priority document accompanied the original application papers. Accordingly, on September 18, 2001, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings necessary for an understanding of the invention and an executed oath or declaration covering the drawings. The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on November 19, 2001, petitioner submitted, inter alia, seven (7) sheets of drawings containing Figures 1-7 and an executed declaration and surcharge together with a paper styled "Response to Notice of Incomplete Nonprovisional Application." The response requested that the "drawings be made of official record in the above-identified application." The application was accorded a filing date of November 19, 2001 based on the seven sheets of drawings petitioner submitted that day.

On November 29, 2001, the Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating that the application has been accorded a filing date of November 19, 2001 and requiring substitute drawings in compliance with the margin requirements of 37 CFR 1.84.

Docketed 2.5.02 Attorney CPE/DSF/EAD/USO
Case 2481.1745
Due Date 4.1.02 WEST
Action DECISION
By
FEB 0 6 2002

On December 10, 2001, inter alia, the present petition including an authorization to charge the present petition fee to counsel's deposit account was filed. In a telephone communication with USPTO Legal Advisor, James Engel, petitioner was informed of a delay in locating the petition. In response, a copy of the petition was supplied by facsimile on December 14, 2001. Prior to mailing this decision the original petition was located and placed in the application file.

Petitioner requests that the application be accorded a filing date of July 6, 2001 with Figures 1-7 as part of the original disclosure. In support, petitioner cites the fact that Figures 1-7 were present in the German priority document that accompanied the original application papers deposited in the Office on July 6, 2001.

A review of the record reveals that the German priority document includes a specification, claims and seven (7) sheets of drawings containing Figures 1-7. The present petition is accompanied by a copy of those drawings. It is noted that the seven sheets of drawings submitted with petitioner's November 19, 2001 response is also based on a copy of the drawings from the German priority document.

Seven sheets of drawings containing Figures 1-7 are included in the German priority document that was present among the original application papers deposited on July 6, 2001. Accordingly, on petition, a copy of those drawings will be construed as the drawings necessary for this application for filing date purposes.

In view of the above, the petition is granted. The seven sheets of drawings submitted with the petition will be used as the drawings for filing date purposes.

The drawings submitted on November 19, 2001 are considered withdrawn and will not be entered or used during the prosecution of this application.

Since the drawings that were evaluated for compliance with the requirements of 37 CFR 1.84 are withdrawn, the Notice mailed November 29, 2001 is hereby vacated.

A review of the declaration that accompanied the November 19, 2001 response reveals that it specifically references the application specification, as filed, to the exclusion of any reference to the drawings. Therefore, the declaration does not execute the application including the seven sheets of drawings. Accordingly, a newly executed oath or declaration in compliance with 37 CFR 1.63, referencing the entire application (including the drawings), and identifying the specification to which it is directed is required.

Applicant is given TWO MONTHS from the date of this decision to file the oath or declaration complying with 37 CFR 1.63 and referencing the drawings as required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of the Initial Patent Examination Division.

The application is being returned to Office of Initial Patent Examination for:

(1) correction of the filing date to July 6, 2001, using the application papers filed July 6, 2001, and the seven sheets of drawings containing Figures 1-7 supplied December 10, 2001;

(2) an indication in the bibliographic data for this application that seven (7) sheets of drawings were present on filing, and

(3) awaiting any oath or declaration in response to this decision.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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APR 19 2002
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#4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Maertens		Atty. Ref.:	**2752-48**
Serial No.	**09/899,302**	Group:	
Filed:	**July 6, 2001**	Examiner:	

For: **PROCESS FOR TYPING OF HCV ISOLATES**

* * * * * * * * * * * *

April 19, 2002

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE

Responsive to the Notice of February 19, 2002, attached is a set of substitute drawings as well as a copy of the Notice. Nothing further is believed to be required in response to the Notice however the Office is requested to contact the undersigned if otherwise.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

B. J. Sadoff
Reg. No. **36,663**

1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

BJS 2752-48

OIPE
APR 19 2002
JC48
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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
09/899,302	07/06/2001	Geert Maertens	Dkt.: 2752-48

DOCKETED

CONFIRMATION NO. 3516

FORMALITIES LETTER

OC000000007493651

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Rd.
Arlington, VA 22201-4714

CLT/MATTER # 2752-48
MAIL DATE 2-19-02
DUE DATE April 19, 2002
FINAL DEADLINE Sept 19, 2002
DOCKETED BY pdr

Date Mailed: 02/19/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - are not on the correct size paper (see 37 CFR 1.84(f)) The size of the sheets on which drawings are made must be either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm (8 ½ by 11 inches);

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD,
11TH FLOOR
ARLINGTON, VA 22203

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JAN 10 2006

OFFICE OF PETITIONS

In re Patent No. 6,887,985	:	DECISION ON REQUEST FOR
Maertens et al.	:	RECONSIDERATION OF
Issue Date: May 3, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/899,302	:	and
Filed: July 6, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 2752-48	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATNET TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(D)," filed June 30, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from two (2) days to two hundred seventy-four (274) days.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **TWO HUNDRED TWELVE (212)** days.

On May 3, 2005, the above-identified application matured into U.S. Patent No. 6,887,985 with a revised patent term adjustment of 2 days. On June 30, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 274 days.

Patentees dispute the reductions of 90 days and 120 days, pursuant to 1.704(c)(10). Patentees note that there is no record in the applicants file, or the PTO Image File Wrapper, of an Information Disclosure Statement filed June 26, 2004, or of a "Miscellaneous Incoming Letter" filed March 28, 2004.

However, patentees do acknowledge filing on March 26, 2004 a Request for a completely initialled copy of the PTO-1449 form filed by facsimile on January 6, 2005. Patentees state that the filing of this paper did not constitute a failure by the applicants to engage in reasonable efforts to conclude prosecution. Patentees state that while the request submitted March 26, 2004 was a paper filed after a Notice of Allowance, the applicants had no opportunity prior to receipt of the Notice of Allowance to request correction of the incompletely initialled PTO-1449 Form, which was only received with the Notice of Allowance dated March 10, 2004.

In addition, patentees assert entitlement to 342 days of patent term adjustment for the Office's failure to issue a patent within three years of the actual filing date of the application.

The application history has been reviewed. First, of all, it is agreed that there is no Information Disclosure Statement (or other paper of record) filed by applicants in this application on June 26, 2004. Accordingly, it is concluded that the reduction of 120 days associated with the filing of such a paper is not warranted. The reduction of 120 days has been removed.

Secondly, the acknowledged Request for a completely initialled copy of the PTO-1449 is the paper received in the Office on March 28, 2004. This is the miscellaneous incoming letter, which caused a reduction of 90 days. Nonetheless, it is concluded that under the circumstances the filing of the letter requesting return of an initialled 1449 should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). As stated by patentees, the PTO-1449 attached to the notice of allowance was not completely initialled. Moreover, the Communication filed March 28, 2004, was the first opportunity by applicants to address the matter. Thus, it is concluded that the reduction of 90 days is not warranted.

Finally, as to the request for an additional 342 days of adjustment, patentees' assertions are not well-taken. As to the period of adjustment, it is agreed that the instant patent issued 3 years and 301 days after its filing date. However, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was

pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the periods of delay totalling 229 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(4) overlap with the 301 days attributable to the delay in the issuance of the patent. An additional period of adjustment of 72 days was entered for Office delay in issuing the patent to reach the actual number of days of delay of 301 days.

In view thereof, the patent should have issued with a patent term adjustment of 212 days (301 days reduced by 89 days).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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 **TWO HUNDRED TWELVE (212)** 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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

NOV - 5 2003

#23

NIXON & VANDERHYE, P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:
Maertens et al	:
Serial No. 09/899,303	: Decision on Petition
Filing Date: 6 July 2001	:
Attorney Docket no. 2551-109	:

This letter is in response to the Petition filed 21 August 2003, requesting withdrawal of the restriction requirement of 25 February 2003. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 USC 111(a) on 6 July 2001.

The Examiner issued two restriction requirements on 25 July 2002 and 5 November 2002; Applicants responded with an election to each on 26 August 2002 and 5 December 2002, respectively.

On 25 February 2003, the Examiner issued a third Restriction requirement which vacated the previous two restriction requirements because of typographical errors. By the time this restriction requirement was set forth, Applicants had submitted four Amendments on 6 July 2001, 12 December 2001, 26 August 2002, and 5 December 2002. At the time of the third restriction requirement, Claims 67-96 were pending and divided into five groups as follows:

> Group I, Claims 67-77, 79 85-91 and 95-96, drawn to recombinant vector comprising a HCV envelop protein.
>
> Group II, Claim 78 drawn to a method for immunization.
>
> Group II, claim 80 drawn to a host cell and recombinant protein.
>
> Group IV, claims 81-83, 92-94 drawn to a recombinant fusion protein of HCV envelop protein.
>
> Group V, claim 84, drawn to a method for purifying an HCV envelop protein.

Within each of Groups I, IV and V, an additional restriction requirement was made. Because the restriction between Groups II, III, IV and V is not being petition and the claims directed to those inventions have been cancelled.

For Group I, applicants were further required to elect one sequence from SEQ ID Nos. 3, 5, 7, 9, 11, 13, 21, 23, 25, 27, 29, 31, 35,37 41, 43, 45, 47 and 49 to be examined on merits.

Further, for Group I, applicants were required to elect one of the following vectors: Vaccinia virus, avipox virus, Ankara modified virus and baculovirus.

On 25 March, 2003, Applicants elected Group I, SEQ ID No. 7 and vaccinia virus, all with traverse.

On 21 April 2003, the Examiner sent out the first action of the merits. The Office action summary sheet states that Claims 67-70, 73-77, 79, 85-91, 95 and 96 were rejected. Claims 71, 72, 78, 80-84, 92-94, directed to non-elected inventions II, III, IV and V were withdrawn from consideration; applicants were reminded to cancel these claims. The examiner considered the traversal and made the restriction requirement final. In an attempt to set forth the scope of the subject matter under examination, the following sentence was added:

"To reflecting the examination on the scope of the vaccinia vector encoding HCV envelop protein, preferably SEQ ID No: 7, claims 67-70, 73-77, 79, 85-88 and 95-96 are considered before the examiner."

Applicants were then reminded to "amend the claims in the scope of Vaccian vector encoding HCV envelope protein, preferable SEQ ID No. 7 for reflecting the examination on the merits."

These confusing statements apparently contradict the Office action summary sheet, which identifies claims directed to other virus vectors as rejected.

The examiner then rejected claims 67-70, 73-74, 76-77, 79, 85-86 as indefinite under 35 USC 112, second paragraph; claims 67, 79 and 85 for lacking enablement under 35 USC 112, first paragraph; and claim 85 for lacking utility and enablement under 35 USC 101 and 112, first paragraph, respectively. Claims 70, 76 and 77 were deemed free of the prior art. Art rejections were made under 35 USC 102 or 103 for various combinations of the other claims.

On 21 August 2003, Applicants filed an amendment, which cancelled Claims 71, 72, 78, 80-84, 92-94, directed to non-elected inventions II, III, IV and V, and amended or cancelled other claims under examination. On that date, applicants also filed an Information Disclosure Statement and this petition. On 10 September 2003, a Supplemental Information Disclosure statement was filed.

DISCUSSION

The file history, restriction requirements, elections and petition have been considered carefully.

Set forth below are claims 67 and 77, as pending during the first action on the merits:

> 67. A recombinant vector comprising a vector sequence, an appropriate prokaryotic, eukaryotic or viral promoter sequence followed by a nucleotide sequence allowing the expression of an HCV single or specifically oligomerized E1 envelope viral protein selected from the group consisting of E1 and/or E2 and/or E1/E2 viral proteins.
>
> 77. A vaccine composition comprising a recombinant vector according to claim 67.

The amendment filed 21 August 2003 cancelled claim 67 and amended claim 77 as follows:

> 77. A vaccine composition comprising a recombinant vector comprising a vector sequence, a promoter selected from the groups consisting of a prokaryotic promoter, a eukaryotic promoter or viral promoter, said promoter being operatively linked to a nucleic acid sequence to allow expression of an HCV single or specifically oligomerized E1 envelope viral protein.

Canceled claim 67 and both versions of the claim 77 are not limited to the elected invention, vaccinia virus vectors and HCV E1 proteins having SEQ ID No. 7. As such, claims 67 and 77, for example, should be considered linking claims. MPEP 809 states that

> The linking claims must be examined with the invention elected and should any linking claim be allowed, the restriction requirement must be withdrawn. The restriction requirement of linking claims is subject to the nonallowance of the linking claims.

The Office action stated that the claims will be examined to the extend that they read upon "vaccinia vector carrying HCV E1 protein, preferably SEQ ID NO 7." The metes and bounds of this language "preferably SEQ ID NO 7" is unclear. Had this phrase turned up in as a claim limitation, it may have warranted a rejection under 35 USC 112, second paragraph for indefiniteness. This ambiguity is compounded by the fact that claims 89, 90, and 91, directed to other non-elected vectors, were indicated as rejected in the Office action summary rather than being withdrawn from examination. Given these errors, it is unclear from the Office action which claims were examined.

The Office action stated that Claim 77, which is not limited to elected SEQ ID No. 7, nor to the elected virus type, is free of the prior art. The only rejection of claim 77 arises from a rejection under 35 USC 112, second paragraph, for being dependent upon rejected claim 67. The rejection of Claim 67 under 35 USC 112, second paragraph improperly finds the claim indefinite in view of its breadth and then asks applicants to submit a single SEQ ID No. for examination. This was improper for two reasons. First, even following a restriction requirement, Applicants are entitled to an examination of their broad linking claims. See MPEP 809.03 (and Form Paragraph 8.12). Second, claim breadth is not grounds for a rejection under 112, second paragraph, for indefiniteness. Because the examiner indicated Claim 77 as free of the prior art, and because the only rejection applied to claim 77 was improper at the time of first action on the merits, the examiner should have withdrawn the restriction requirement between the various vectors and between the various sequences and extended the examination to the full scope of Group I.

In view of the examiner's failure to follow Office procedures as outlined in MPEP 809 and the confused, protracted prosecution history, this application is being returned to the examiner to examine the full scope of the claims, as pending.

DECISION

This petition has been **GRANTED** for the reasons set forth above.

The application is being returned to the examiner for consideration of the amendment and response filed 21 August 2003 and for completion of an Office action on claims as pending.

The Petition fee of $130.00 will be credited to Applicants Deposit Account Number 14-1140, as directed.

Should there be any question with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria VA 22313-1450 or by telephone at 703-308-7553 or by facsimile transmission at (703) 305-7230.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

JC98
OCT 10 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/899,304	07/05/2001	Oskar A. Haas	MBP-1-CIP

CONFIRMATION NO. 3525

22827
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

FORMALITIES LETTER

OC000000006389763

Date Mailed: 08/07/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 65.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

10/15/2001 NMOHAMM1 00000011 09899304
01 FC:205 65.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
FILING COMPLETION UNDER 37 CFR 52, 53, and/or 85

cation of: Haas et al

09/899,304

07/05/2001

ition No.: 3525

"Method for the Targeted Application of Reagents Onto Immobilized Biological Material"

sioner for Patents
tent and Trademark Office
gton, DC 20231

Attention: Application Branch

Date: October 8,. 2001

Attorney Docket No.: MBP-1-CIP

Art Unit: 1655

Our Account No.: 04-1403

llowing completes the filing of the above-identified patent application under Rule 52, 53, and/or 85:

Rule 53 signed Declaration enclosed.
This is a Rule 47 filing per attached Petition.
Enclosed: Original signed Declaration with attached specification (including claims) which is a copy of specification/claims originally filed to secure above filing date.
Specification originally filed in non-English language; hence verified translation attached of:
Abstract [ ] ___ pages of Specification (only spec. & claims) [ ] Drawing Figs.
___ sheet(s) of formal drawings enclosed: size: [ ] A4 [ ] 14" [ ] 8½ by 11
Attached is an assignment to _____.
Priority is hereby claimed under rule 55 and 35 U.S.C. 119 based on prior foreign application(s) no(s). _____, filed in _____ on _____, respectively.
Certified copy (copies) [ ] attached: [ ] already filed on _____ in U.S. Application, Serial No. _____, filed _____.

] Attached: ___ Verified Statement(s) establishing "small entity" status under Rules 9 & 27.
] Attached is the request return copy of the PTO Notice under Rule 52, 53, and/or 85.
:] Attached: Check (USD) 65; Return Receipt Postcard

] Preliminary Amendment: _____.

THE FOLLOWING FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY ABOVE CANCELLED PER MPEP § 506 AND § 607

If not earlier paid, add Basic Filing Fee			$_____
Total Effective Claims _____ - 20 =	_____ x $18.00	=	$_____
Independent Claims _____ - 3 =	_____ x $84.00	=	$_____
If any proper multiple dependent claim (ignore improper) is present, add $280.00			$_____
	Filing Fee		$_____

Since PTO Notice under Rule 52, 53, and/or 85 set an original due date of _____, petition is hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month $110; 2 months $400; 3 months $920; 4 months $1440). $_____

If this is the first time either signed Declaration filed or filing fee paid, add Surcharge ($130)		$ 130.00
	Subtotal	$_____
If "small entity" status box above is X'd, enter half (1/2) of subtotal & subtract	-	$ 65.00
	Total =	$ 65.00
If "non-English" box above is X'd, add Rule 17(i) or (k) processing fee $130.00)		$_____
If "assignment" box is X'd, add recording fee ($40.00)		$_____
If "Rule 47" box above is X-d, add Petition fee $130.00 Rule 17(h)		$_____
	TOTAL FEE ENCLOSED	**$ 65.00**

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. This statement does not authorize charge of the issue fee in this case.

ADDRESS:
Post Office Box 1449
Greenville, South Carolina 29602
Phone: 864-271-1592
Facsimile: 864-233-7342

DORITY & MANNING
ATTORNEYS AT LAW, P.A.
By Atty: J. Bennett Mullinax Reg. No. 36,221
Signature: J. B. Mullinax

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, U.S. Patent and Trademark Office, Washington, DC 20231, on

October 8, 2001

Peggy S. Baker
(Typed or printed name of person mailing paper or fee)

(Signature of person mailing paper or fee)

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

Norris McLaughlin & Marcus
PO Box 1018
Somerville, NJ 08876-1018

COPY MAILED

OCT 16 2003

OFFICE OF PETITIONS

In re Application of :
J. Peter Johnson et al. :
Application No. 09/899,329 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. PCUS-059 (100087-157 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 9, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 19, 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 2882 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

RATNER & PRESTIA
SUITE 301
ONE WESTLAKES BERWYN
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

COPY MAILED

NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of :
Koya Kurokawa :
Application No. 09/899,350 : DECISION ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. MAT-8145US :

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed September 24, 2001, requesting that the above-identified application be accorded a filing date of July 5, 2001, rather than the presently accorded filing date of July 6, 2001. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on July 5, 2001, pursuant to the requirements of 37 CFR 1.10. While the copy of the Express Mail label receipt no. EL923263680US bears a handwritten "date-in" of May 7, 2001, it also includes a "Southeastern PA USPS" receipt stamp dated "July 5, 2001."

The Office considers that date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPS Track and Confirm record confirms that the package in question was enroute on July 5, 2001. Accordingly, the petition is granted.

The application is being returned to Initial Patent Examination Division to await applicant's response to the Notice mailed August 21, 2001, and for correction of the filing date to July 5, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Express Mail Track/Confirm Sheet

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY 13 2004

#15

VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON TX 77002-6760

In re Application of :
Mark Van Dyke et al :
Serial No.: 09/899,372 : PETITION DECISION
Filed: July 2, 2001 :
Attorney Docket No.: KER020/64000 :

This is in response to the petition under 37 CFR 1.181, filed October 22, 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, but may have been caused by an incorrect Serial Number.

A review of the file history shows that the examiner mailed a Final Office action to applicants on January 22, 2003, setting a three month shortened statutory period for reply. On July 21, 2003, applicants filed a set of RCE papers including an amendment to the claims and request and fee for a three month extension of time. On August 22, 2003, the examiner mailed a Notice of Abandonment to applicants based on a telephone interview summary (it is not clear that the examiner actually talked with applicants' attorney or merely left a message). However the RCE papers have now been correlated with the file and will be processed accordingly. 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, the fees have been charged to Deposit Account No. 22-0365, as directed. The application will then be forwarded to the examiner for further.

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
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Alexandria, VA 22313-1450
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Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of
Alcott
Application No. 09/899,378
Filed: 7/2/2001
Attorney Docket No.8285-422

:DECISION DISMISSING PTA
:RECONSIDERATION

This decision is in response to applicant's NOTICE REGARDING PATENT TERM EXTENSION filed on April 11, 2005 requesting that the Office review the amount of PTA because the determination of 460 days "may extend the term of this patent by too many days." The Office determined that applicant should receive four hundred and sixty (460)days of PTA at the time of the mailing of the notice of allowance.

Applicant's letter regarding PTA is **DISMISSED.**

Applicant's assert that the number of PTA days determined by their analysis may extend the patent by too many days. Applicant did not provide any information as to the nature of the error in the USPTO determination.

Applicant's assertion is not persuasive. A review of the application file reflects that the Office failed to initially act upon the application within fourteen months of the filing date of the application by period of five hundred and forty-six days. See 37 CFR 1.702(a)(1).[1] No additional delays were committed by the USPTO. Applicant had eighty-six (86) days of Office delay for failing to meet the requirement of 37 CFR 1.704(b) by a period of eighty-six (86) days. If applicant believes that the Office has overlooked some factor in this response, then the Office invites applicant to reply with a comment as what the error involves.

The Office suspects that the letter was submitted due to applicant's submission of a terminal disclaimer in the application. The Office does not go through the burdensome task of determining whether or not the terminal disclaimer will prevent the patentees for enforcing the additional days awarded under PTA. However, the Office publishes a notice on the front of the patent that the amount of PTA OR PTE awarded is subject to the limitations in the terminal disclaimer.

[1]The Office delay began on September 3, 2002 and ended on March 1, 2004, a five hundred and forty-six (546) day delay.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays occurring under 37 CFR 1.702(a)(4) or (b) will be reflected in the issue notification letter that will be mailed to the applicant approximately three weeks prior to the issue date.

The Office thanks applicants for their good faith and candor in bringing alleged PTO errors to the attention of the Office. Under these circumstances, the Office will not assess a fee for the submission of this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, 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

#12

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MAILED

FEB 06 2004

Office of the Director
Group 3600

Thomas J. Brindisi
20 28th Place, #B
Venice, CA 90291

Paper No. 12

In re Application of
Abrar Tirmizi
Application No. 09/899,398
Filed: July 5, 2001
For: PYROTECHNIC INITIATOR WITH ON-BOARD CONTROL CIRCUITRY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on October 31, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☒ Certificate of Mailing/Transmission signed on June 23, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/1/21/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

Steven P. Wigmore, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta GA 30303

MAIL

NOV 0 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
James O. Farmer, et al. :
Application No. 09/899,410 : DECISION ON REQUEST TO
Filed: July 5, 2001 : WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR :
COMMUNICATING OPTICAL SIGNALS :
BETWEEN A DATA SERVICE PROVIDER
AND SUBSCRIBERS

This is a decision on the request to withdraw as attorney/agent of record filed on 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.**

Josephine Young is granted the request for withdraw of attorney/agent.

The file is being returned to the examiner for consideration of the response filed September 17, 2002.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele, Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

United States
Patent And
Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Pre-Grant Publication Division
2231 Crystal Drive, Suite 905
Arlington, VA 22201
www.uspto.gov

August 4, 2004

PROCESSED BY
PG PUB DIVISION
AUG 4 2004

Jeff Coulter
Reed Technology and Information Services, Inc.
275 Gibraltar Road
Horsham, PA 19044

RE: **Authorization of Corrections for A9 Publication**

Authorization is given to publish the following original application for the purpose(s) of modifying the specified text, images or other documentation, as an A9 publication to correct publication inaccuracies.

Patent Application Number: 09/899,431
Publication Number Reference: US20020101445A1

Projected A9 Export Date: 8/12/04
Projected Publication Date: 10/3/04

The following errors are referred to on the front page of the A1 Publications of the application.

1) See attachments Palm Intranet Continuity Information concerning the Related U.S. Application Data for (USPTO), "Pub. No.:US20020101445A1", for the purpose of adding continuity information to the Related U.S. Application Data. Those notated sections of the A1 publication are authorized for correction:

Reference: Front page of A1 publication

A. "Publishing the application with inaccurate applications for the Related U.S. Application Data."

2) In accordance with Page III-37 of the 29Jan02 edition of the DATA PREPARATION MANUAL FOR PRE-GRANT PUBLICATION, the A9/P9 information document will specify the contents of the "See ..." line(s) that will be published under (15) Prior Publication Data on the front page of the A9 or P9 document.

The following information is for correction of US20020101445A1 August 1, 2002:

See Related U.S. Application Data.

Shelby Pittman
United States Patent and Trademark Office
Pre Grant Publication Division

UNITED STATES 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

Troy J. Cole
Woodard, Emhardt, Naughton, Moriarty & McNett
Bank One Center/Tower, Suite 3700
111 Monument Circle
Indianapolis IN 46204-5137

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Berque :
Application No. 09/899,431 : DECISION ON PETITION
Filed: July 3, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 137-2 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 28, 2003 , to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 3, 2003, within twelve months of the filing date of the prior-filed provisional application No. 60/257,221, which was filed on December 21, 2000, and provisional application No. 60/265,359 filed January 31, 2001, for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for

priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications 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 Nos. 60/60/257,221, and 60/265,359 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

The application is being forwarded to Technology Center AU 2173 for appropriate action on the amendment submitted December 29, 2003, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application Nos. 60/257,221 and provisional application No. 60/265,359.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

The Halvorson Law Firm
Suite 1
405 W. Southern Ave
Tempe, AZ 85282

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NOV 2 8 2001

OFFICE OF PETITIONS

In re Application of :
Kleiman et al. :
Application No. 09/899,432 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. 511-051 :

This is a decision on the petition filed September 18, 2001, to accord the above-identified application a filing date of July 3, 2001, instead of July 6, 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.[1] 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**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

---

[1] Without a copy of the label, the Office is also unable to determine whether the package was deposited with the proper postage and with the label properly attached. Obviously, the package could not be delivered, if the label had been disassociated from the package.

Petitioner requests that Office records be changed to reflect "the correction in the foreign priority." The Office is unclear as to the exact meaning of petitioner's request in so far as a claim to foreign priority has not been located in the file.

The declaration submitted fails to comply with 37 CFR 1.63. The declaration signed by Kleiman fails to indicate that he is a co-inventor *with Brown* and fails to include Brown's citizenship. The declaration signed by Brown fails to indicate he is a co-inventor with Kleiman and fails to include Kleiman's citizenship. A simple way to remedy the problem is to prepare a declaration including relevant information for both inventors. Brown may sign one copy and Kleiman may sign another (or both may sign the same copy). **Petitioner is hereby given two months to file a proper declaration. The time period may be extended under 37 CFR 1.136(a). The failure to file a proper declaration within the time period will result in the abandonment of the 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 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
P.O. Box 1450
Alexandria, VA 22313-1450
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THE HALVORSON LAW FIRM
405 W. SOUTHERN AVE.
SUITE 1
TEMPE, AZ 85282

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Kleiman et al.	:	
Application No. 09/899,432	:	ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No. 511-051	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed January 13, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 14, 2004. A Notice of Abandonment was mailed September 9, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The Amendment submitted to the Examiner on January 18, 2005 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KRISTOFER E. HALVORSON
1757 E. BASELINE ROAD, STE. 130
GILBERT, AZ 85233

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NOBLITT & GILMORE, LLC.
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SUITE 6000
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of :
Kleiman et al. :
Application No. 09/899,432 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. 511-051 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600.

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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Eric Jurgen Van Der Zwan et al :
Application No. 09/899,449 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. NL 000364 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 29, 2005, 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 March 30, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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) (2).

The Office received an authorization to charge the petition fee with the petition filed August 8, 2006. However, the person signing the petition, Michael J. Ure, is not an authorize user for the

14-1270 deposit account. This petition can not be revive until the $1500 outstanding petition fee is received.

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
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) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Michael J. Ure
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of :
Eric Jurgen Van Der Zwan :
Application No. 09/899,449 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. NL 000364 :

This is a decision on the renewed petition filed May 14, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to Technology Center AU 2615 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY LAW DEPARTMENT
11400 BURNET ROAD, INTERNAL ZIP 4054
AUSTIN, TX 78758

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Gerald Francis McBrearty et al :
Application No. 09/899,453 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. AUS9-2001-0338-US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 5, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1751 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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23913
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5th Floor - Stop 49
New York, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of :
C.W. BENJAMIN *et al* :
Application No.: 09/899,495 :
Filing Date: July 5, 2001 :
Docket No.: 00180.US1/PHRM-0340 :
For: HUMAN ION CHANNELS :

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 March 10, 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 August 8, 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.

The application file is being referred to Technology Center AU 1641.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

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BACON & THOMAS, PLLC
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FOURTH FLOOR
ALEXANDRIA VA 22314

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Ralf Reimelt et al. :
Application No. 09/899,502 :
Filed: July 6, 2001 :
Title: APPARATUS FOR DETERMINING AND/OR MONITORING THE FILLING LEVEL OF A PRODUCT IN A CONTAINER :

DECISION ON PETITION
UNDER 37 C.F.R. §1.183

BACKGROUND

This is in response to the petition filed January 14, 2004, under 37 C.F.R. §1.182, requesting that 37 C.F.R. §1.193(b)(1) be waived so that an untimely reply brief to the Examiner's Answer and a request for an oral hearing can be entered.

On December 17, 2002, the Office issued a final rejection. On April 17, 2003, the Applicant submitted a Notice of Appeal, along with a one-month extension of time. On August 18, 2003, an Appeal Brief was received, along with a two-month extension of time. On November 3, 2003, the Examiner's Answer was mailed. Petitioner has set forth that both a reply brief to the Examiner's Answer and a request for an oral hearing were prepared, but were never mailed to the Office. Petitioner has alleged that the failure to submit the papers was due to a merger his law firm was involved in, as the papers were not transferred to the new firm of record.

Petitioner has included a reply brief to the Examiner's Answer, a request for an oral hearing, the appropriate fees and the petition fee, and a change of address.

THE RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.183: Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

[47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982]

37 C.F.R. § 1.193 Examiner's answer and reply brief, sets forth, in part.
(b)
(1) Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within two months from the date of such examiner's answer or supplemental examiner's answer. See § 1.136(b) for extensions of time for filing a reply brief in a patent application and § 1.550(c) for extensions of time for filing a reply brief in a reexamination proceeding. The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief. A supplemental examiner's answer is not permitted, unless the application has been remanded by the Board of Patent Appeals and Interferences for such purpose.

37 CFR 1.194 Oral hearing, sets forth, in part:

(b) If appellant desires an oral hearing, appellant must file, in a separate paper, a written request for such hearing accompanied by the fee set forth in § 1.17(d) within two months from the date of the examiner's answer. If appellant requests an oral hearing and submits therewith the fee set forth in § 1.17(d), an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board. See § 1.136(b) for extensions of time for requesting an oral hearing in a patent application and § 1.550(c) for extensions of time for requesting an oral hearing in a reexamination proceeding.
(c) If no request and fee for oral hearing have been timely filed by appellant, the appeal will be assigned for consideration and decision. If appellant has requested an oral hearing and has submitted the fee set forth in § 1.17(d), a day of hearing will be set, and due notice thereof given to appellant and to the primary examiner. A hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for appellant and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins. If the Board decides that a hearing is not necessary, the Board will so notify appellant.

MPEP 1209, Oral Hearing, sets forth, in part:

37 CFR 1.194(b) provides that an appellant who desires an oral hearing before the Board must request the hearing by filing, in a separate paper, a written request therefor, accompanied by the appropriate fee set forth in 37 CFR 1.17(d), within 2 months after the date of the examiner's answer. This time period may only be extended by filing a request under either 37 CFR 1.136(b) or, if the appeal involves an ex parte reexamination proceeding, under 37 CFR 1.550(c).

ANALYSIS

37 C.F.R. §1.183 provides a mechanism by which petitioners who are facing extraordinary situations may seek to have the requirements of the regulations suspended. With the instant petition, Petitioner's law firm merged with another, and neither the reply brief to the Examiner's Answer nor the request for an oral hearing were transferred from one firm to the other. As such, neither was submitted to the Office in a timely manner.

There does not appear to be anything particularly extraordinary about two law firms merging into one. Furthermore, as one would expect the two firms to properly deliver the associated files to where they need to be upon the execution merger, justice does not seem to require the waiver of the $110.00 one-month extension of time fee to make timely these submissions.

CONCLUSION

As such, the petition is **DISMISSED**.

The $110.00 extension of time fee has been charged to Petitioner's Deposit Account, as authorized in the file, and both the reply brief to the Examiner's Answer and the request for an oral hearing have been entered.

After the mailing of this decision, the application will be forwarded to TC 2800.

The change of address has been entered and made of record.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Ralf Reimelt et al.
Application No. 09/899,502
Filed: July 6, 2001
Title: APPARATUS FOR DETERMINING AND/OR MONITORING THE FILLING LEVEL OF A PRODUCT IN A CONTAINER

CORRECTED DECISION ON PETITION UNDER 37 C.F.R. §1.182

On January 14, 2004, a petition was filed under 37 C.F.R. §1.182, requesting that 37 C.F.R. §1.193(b)(1) be waived so that an untimely reply brief to the Examiner's Answer and a request for an oral hearing can be entered.

A decision was mailed August 11, 2004, which dismissed the petition, and set forth "both the reply brief to the Examiner's Answer and the request for an oral hearing have been entered."

This was a typographical error, in that the decision should have set forth that neither the Examiner's Answer nor the request for an oral hearing have been entered.

As such, this portion of the previous decision is hereby **VACATED**. The petition remains **DISMISSED**, and neither of these two submissions will be entered.

The Office regrets this mistake.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 23

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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JAN 2 6 2005

OFFICE OF PETITIONS

In re Application of
Ralf Reimelt et al.
Application No. 09/899,502
Filed: July 6, 2001
Title: APPARATUS FOR DETERMINING AND/OR MONITORING THE FILLING LEVEL OF A PRODUCT IN A CONTAINER

CORRECTED DECISION ON PETITION UNDER 37 C.F.R. §1.182

On January 14, 2004, a petition was filed under 37 C.F.R. §1.182, requesting that 37 C.F.R. §1.193(b)(1) be waived so that an untimely reply brief to the Examiner's Answer and a request for an oral hearing can be entered.

A decision was mailed September 2, 2004, which dismissed the petition, and set forth "neither the Examiner's Answer nor the request for an oral hearing have been entered."

This was a typographical error, in that the decision should have set forth that neither the reply brief to the Examiner's Answer nor the request for an oral hearing have been entered.

As such, this portion of the previous decision is hereby **VACATED**. The petition remains **DISMISSED**, and neither of these two submissions will be entered.

The Office regrets this mistake.

After this decision is mailed, the application will be forwarded the Board for Patent Appeals and Interferences for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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JUL 2 9 2002

OFFICE OF PETITIONS

FACTOR & PARTNERS, LLC
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

In re Application of:
Rick Winter
Application No. 09/899,523
Filed: July 5, 2001
Title of Invention: LEAK SENSOR FOR FLOWING ELECTROLYTE BATTERIES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b) AND NOTING JOINDER OF THE INVENTOR

This is a decision on the Petition under 37 CFR 1.47(b), filed March 5, 2002 (Certificate of Mailing dated February 20, 2002), and Supplemented on July 25, 2002, with a fully executed oath or declaration, noting the joinder of the inventor and rendering the instant Petition moot.

The petition fee, $130.00, has been refunded to deposit account 50-0545. It is also noted that the petition was filed six month after the Notice to File Missing Parts of Application was mailed August 23, 2001. The notice provided for a two (2) month period within which to reply. Petitioner paid for a three (3) month extension, however, an additional one (1) month is required to render the reply timely. Accordingly, Petitoiner's deposit account has been charged the difference between the fee for a three month extension, $460.00, and a four month extension, $720.00, or $260.00.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MAILED
FROM DIRECTORS OFFICE

MAY 18 2006

TECHNOLOGY CENTER 3600

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

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re application of
Royce Morrison
Application No. 09/899,526 : DECISION ON REQUEST
Filed: July 6, 2001 : FOR WITHDRAWAL OF
For: PROCESS FOR CONSUMER- : ATTORNEY
DIRECTED PRESCRIPTION
INFLUENCE AND HEALTH CARE
PRODUCT MARKETING

This is a decision on the request filed on March 28, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition (B)

As to condition B) the reason "Due to client's request to transfer certain applications," is not acceptable, since it is not clear if "certain applications" being transferred include this application.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/dcg: 5/16/06

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ALEXANDRIA, VA 22313-1450
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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of	:	
Leonid Zhelnin et al	:	
Serial No.: 09/899,532	:	PETITION DECISION
Filed: July 6, 2001	:	
Attorney Docket No.: 02973.00040	:	

This is in response to the petition under 37 CFR 1.59(b), filed July 8, 2004, to expunge a Information from the above identified application..

Petitioner requests that the affidavit un 37 CFR 1.131 submitted with the response of June 25, 2004, be expunged from the record and replaced by a substitute declaration filed July 6, 2004. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The affidavit was submitted originally with the indication that all dates had been removed. Subsequently it was discovered that not all dates had been removed and a substitute affidavit was prepared which is identical to the first except for al dates having been removed. The original affidavit was scanned into IFW and cannot be physically returned. However, it has been closed to public access..

The petition is **GRANTED** to the extent indicated.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

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
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DIW 02-02

Paper No. 8

MARK E. UNGERMAN, ESQ.
FULBRIGHT & JAWORSKI, LLP
801 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

COPY MAILED

MAR - 5 2002

OFFICE OF PETITIONS

In re Application of :
Henderson and Kia :
Application No. 09/899,534 : DECISION ACCORDING STATUS
Filed: 6 July, 2001 : UNDER 37 CFR 1.47(a)
Att'y Docket No. 693.001/10019556 :

This is in response to the petition filed under 37 CFR 1.47(a) on 21 November, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Charles English Henderson, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have presented a copy of the letter forwarding the application to Henderson at his last known address. Petitioners' registered patent attorney, Michael J. Strauss, states, furthermore, that an additional copy of the application was sent to the non-signing inventor's residence and to his place of business. The non-signing inventor has not executed and returned the declaration, however, naming him as a joint inventor along with Omid Ebrahimi Kia.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 02-02

Charles English Henderson
866 Kygers Hill Road
Lexington, VA 24450

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MAR - 5 2002

OFFICE OF PETITIONS

In re Application of
Henderson et al.
Application No. 09/899,534
Filed: 6 July, 2001
For: METHOD AND SYSTEM FOR COLLABORATIVE KNOWLEDGE MANAGEMENT

Dear Mr. Henderson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MARK E. UNGERMAN, ESQ.
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801 PENNSYLVANIA AVENUE, N.W.
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Paper No. 10

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801 Pennsylvania Avenue, N.W.
Washington, DC 20004

MAIL

SEP 2 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Charles E. Henderson, et al.
Application No. 09/899,534
Filed: July 6, 2001
For: METHOD AND SYSTEM FOR COLLABORATIVE KNOWLEDGE MANAGEMENT

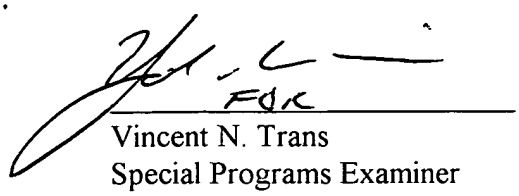
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 28, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

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MAIL

OCT 2 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Charles E. Henderson, et al.
Application No. 09/899,534
Filed: July 6, 2001
For: METHOD AND SYSTEM FOR COLLABORATIVE KNOWLEDGE MANAGEMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 23, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. C. Gregory Earls
U.S. Technologies, Inc.
1130 Connecticut Avenue, N.W.
Suite 700
Washington DC 20036

#4

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Paper No. 4

In re Application of David EBBO et al

Application No. 09/899,539
Filed: July 6, 2001
Attorney Docket No.

: DECISION GRANTING PETITION
: TO REMAIL AN OFFICE
: COMMUNICATION AND RESTART
: PERIOD FOR REPLY

This is a decision on the petition filed on March 6, 2002, requesting that the Office communication mailed on August 23, 2001 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record never received. The entire portion of the reply period had elapsed on the date of receipt.

Accordingly, the Office communication in question will be remailed and the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication.

The items required were also received by the Patent and Trademark Office that were identified in the Notice to File Missing Parts. Therefore, the petition is granted but no response is required in the Notice to File Missing Parts dated May 28, 2002.

Kevin Little 5/28/02

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 28 ~~2006~~ 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

CHIRON CORPORATION
ATTN:HELEN LEE.
INTELLECTUAL PROPERTY-R440
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

In re Application of
Megede JZ et al.
Serial No. : 09/899,575
Filed : 5 July 2001
Attorney Dkt No. :PP01631.102 2302-1631.21

Decision on Petition

This is in response to the petition under 37 CFR 1.144 filed 1 September 2005, to request review of a restriction requirement.

BACKGROUND

A review of the file history shows that the application was filed on 5 July 2001 under 35 USC 111(a) as a CIP of 09/610,313 with 96 claims drawn to expression cassette comprising various polynucleotide sequences.

Examiner mailed a restriction requirement on January 5, 2005, in which the 96 claims were divided in to 20 groups under 35 U.S.C. 121, Because the restriction requirement among Groups I-XX is not under review, the groups I and III-XX are not listed herein. The petition concerns the division within elected Group II:

II. Claims 2-6 and 38-46, drawn to an expression cassette comprising a polynucleotide of SEQ ID NOs: 46, 119-127, and 131-133, classifiable in class 435, subclass 320.1.

Within elected Group II, the examiner required applicants to elect from SEQ ID NOs: 46, 119-127, 131, 132, and 133. The sequences encode HIV Env polypeptides.

Examiner also indicated that there are no claims encompassing a generic HIV polypeptide, which indicates that the SEQ ID NOs are independent and there is no disclosure of relationship (percent sequence identity) in the specification between the claimed sequences in each group.

In response, on March 7, 2005, Applicants elected Group II and SEQ ID NO:120 with traverse.

In the Office action mailed June 2, 2005, the examiner indicated that the arguments for the traversal were not persuasive and made the restriction FINAL.

In a response filed on August 31, 2005, Applicants again requested consideration of the restriction arguing that structure of the polypeptide encoded by the claimed polynucleotide is not relevant, even if the structure was relevant, Examiner has provided no evidence that the polynucleotides encode polypeptides with different structure, Examiner provided no evidence that the searching of all sequences would be burdensome and that applicant provided clear evidence that a high degree of homology between the claimed sequences, establishing that searching all sequences together would not be unduly burdensome and finally filing of separate applications would present financial burden.

On September 6, 2005, Applicants petitioned to review the restriction requirement between the inventions of Group II. The petition is timely filed under 37 CFR 1.144.

DISCUSSION

The application, file history and petition have been considered carefully. The sequence alignments and sequence comparison table filed by the applicants has also been considered fully.

Applicants request reconsideration and withdrawal of the Restriction between the sequences of Group II, all of which, according to applicants encode HIV envelope glycoproteins. Applicants argue that indeed, by restricting to a single sequence, the Office has prevented them from claiming the full scope of their invention. Applicants recite from M.P.E.P. § 803.02.

> Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

Applicants argue that all Group II sequences share a common utility (encoding an immunogenic HIV Env polypeptide) and possess a substantial structural feature (particular polynucleotide coding sequences) essential to that utility and that the claimed polynucleotides do not differ in structure or function but differ only in sequence and that the assertion that the sequences are structurally different (along with the irrelevant assertion that they encode structurally different polypeptides) is in error and cannot support the Restriction. Therefore, Restriction among the different Env-encoding sequences should be withdrawn.

The argument concerning the common utility is not persuasive because it is not commensurate with the claims. The claims of group II are simply drawn to an expression cassette comprising a sequence having 90% sequence identity to a group of polynucleotides. None of the claims in group II requires a polynucleotide that encodes an immunogenic HIV envelope polypeptide as alleged by the applicants.

Furthermore, applicants' argument that all Group II sequences possess substantial structural feature essential to a common utility and that the polynucleotides do not differ in structure but only differ in sequence is not persuasive. This is because, as evidenced by the sequence comparison provided by applicants, the sequences in claim 38 differ from each other by as much as 15% in their sequence identity. For example SEQ ID NO:131, 132, 133 are only 85%, 89%, 88% identical to SEQ ID NO:122 respectively. A difference of 15% is a significant difference and cannot be concluded as minor difference. Next, applicants argument that the polynucleotides share a common utility and possess substantial structural feature "essential to that utility" is also not persuasive for several following reasons.

First, the claims are not directed to polynucleotides which are required to encode an "Env" polypeptide as alleged, but to polynucleotides that are 90% identical to the claimed polynucleotide sequences. Polynucleotides which can vary by as much as 90% from SEQ ID No 120 are not limited to those which encode the "Env" polypeptide but include polynucleotides which would have frameshift or truncations such that no polypeptide was encoded or such that an unrelated polypeptide may be encoded from a different open reading frame.

Second, even if claims were directed to polynucleotides encoding "Env" polypeptides, applicants have not identified and provided the Examiner, the "substantial structural feature essential for that utility" i.e., envelope protein utility, such that polynucleotides having such structures can be easily identified. A perusal of the specification does not provide any information regarding any structural feature that can be used to identify "Env" encoding polynucleotides. A search in the non-patent literature indicates that there are several types of "Env" polypeptides such as gp41, gp120, gp140, gp160 etc. with each polypeptide having specific structural and functional and immunogenic properties. It is also evident from the literature that these proteins are highly specific such that they are all not obvious variants of each other. Furthermore, for the sake of argument if it is considered that the encoded polypeptides have the same utility, i.e., serve as envelope polypeptide of HIV, each encoded polypeptide will have

different structure because of different amino acid sequence and a different function even as an envelope protein.

Applicants' next argument that, the polynucleotides in question do not differ in structure but only differ in sequence is misplaced. This is because, the structure of a polynucleotide is dependent on its sequence or the structure *is* defined by the sequence. Therefore, if two polynucleotides have different sequences they have different structure and different sequences are considered as different inventions. Consequently, searching different polynucleotides does cause undue search burden on the Examiner/Office. Furthermore, the search of these polynucleotides is not limited to the sequence database of the issued patents database maintained at the Office but involves the search of several public and commercial databases.

Applicants also argue that if the current restriction groupings are maintained, they will have to file 58 separate applications and the related expenses would be an undue burden on them. Applicants also argue that 58 additional applications would constitute even more burden on the Office, particularly in light of the current examination backlog. Such arguments also are not found to be persuasive. All applicants have to bear the burden of patenting their inventions, whether the invention involve one or 58 different sequences. The Office is under no obligation to examine more than one invention in order to reduce the expenses for the applicant. It is noted that the burden to the Office is not lessened by examining all the sequences that applicants have requested as opposed to the burden of examining 58 different applications.

Finally, applicants recite the O.G. notice of November 19, 1996, (MPEP 2434 at 1192 O.G. 68 (Nov. 19, 1996)) that the PTO believes that allowing applicants to claim up to ten (10) independent and distinct nucleotide sequences in a single application will promote efficient, cost effective examination of these types of applications. While the above O.G.Notice is acknowledged, it should be noted that the sequence waiver is permissive in nature and not mandatory and the instant sequences, as claimed, are not limited to simple polynucleotide sequences, but encompass variants. As such, and absent an allowable generic linking claim, restriction to the genus of expression cassettes comprising a polynucleotide having 90% identity to SEQ ID No 120 is appropriate.

DECISION

For these reasons, the petition to withdraw the restriction requirement between the sequences of Group II is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to consider the RCE and response filed on 26 July 2005 and to prepare an action which is consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Jasemine Chambers
Director, Technology Center 1600

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FEB - 7 2006

HELEN LEE
CHIRON CORPORATION
INTELLECTUAL PROPERTY-R440
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

In re Application of	:	
Jan Zur Megede, et al	:	
Serial No.: 09/899,575	:	DECISION ON PETITION
Filed: July 5, 2001	:	
Attorney Docket No.: PP01631.102	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed September 6, 2005, to review the restriction requirement and have all of the sequences in Group II searched.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and that the Office set forth a restriction requirement under 35 U.S.C. 121, of claims 1-97 in an office action mailed January 5, 2005. The groupings are reproduced below:

> Group I, claims 1, 13, 14, 59-73 and 97, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 30-32, 62 and 103;
> Group II, claims 2-6 and 38-46, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 46, 119-127, and 131-133;
> Group III, claims 7 and 8, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 51 and 99;
> Group IV, claims 9 and 10, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 55, 57, 96, 101, and 134-135;
> Group V, claim 11, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NO: 58;
> Group VI, claim 12, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NO: 60;
> Group VII, claim 15, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 64 and 66;
> Group VIII, claims 16 and 17, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 68 and 70;

Group IX, claims 18-21, 33, 34, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 72, 74, 91, 105, and 107;
Group X, claims 22 and 23, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 76 and 78;
Group XI, claims 24-26, 35, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 80, 81, 83, 93, 94, 109, 111, and 113;
Group XII, claim 27, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 85 and 113;
Group XIII, claims 28 and 29, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 87 and 115;
Group XIV, claims 30-32, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NOS: 89 and 117;
Group XV, claims 36-37, drawn to an expression cassette comprising a polynucleotide sequence of SEQ ID NO: 96;
Group XVI, claims 47-51, drawn to a polynucleotide depicted in SEQ ID NO: 33;
Group XVII, claims 52-56 and 74-77, drawn to a polynucleotide depicted in SEQ ID NO: 45;
Group XVIII, claims 57-58, drawn to a polynucleotide depicted in SEQ ID NO: 128;
Group XIX, claims 78-90 and 92-96, drawn to a method of DNA immunization in a subject or generating an immune response in a subject;
Group XX, claim 91, drawn to a method of generating an immune response in a subject using an HIV polypeptide.

The examiner reasoned that Groups I-XVIII are patentably distinct products. The examiner stated that the polynucleotides in Groups I-XVIII have a different function and different effect. Furthermore, the information provided by any of the polynucleotides of Group I can be used to make a materially different polypeptide than the polypeptide encoded by the polynucleotides in groups II-XVIII and vice versa. In addition, a sequence having 90 % sequence identity to a sequence presented in Group I encompasses molecules which contain point mutations, splice sites, frameshift mutations or stop codons which would result in use of a different open reading frame, and thus encode a protein that lacks any significant structure in common with a polynucleotide in Groups II-XVII and vice versa. In addition, the polynucleotides that fall within the scope of Group I cannot be made by methods for producing the polynucleotides of Groups II-XVIII and vice versa. Furthermore, searching the inventions of Groups I-XVIII together would impose a serious burden. In the instant case the search of the polynucleotides in Groups I-XVIII are not coextensive. In cases such as this one where descriptive sequence information is provided, the sequences are searched in appropriate databases. There is search burden also in the non-patent literature. Thus, the examiner concluded, to search Groups I-XVIII together would be burdensome.

The examiner next discussed Groups XIX and XX as unrelated. In the instant case, the examiner stated that the specification does not disclose that these methods would be used together. The method of DNA immunization (Group XIX) and the method of producing an immune response to recombinant proteins (Group XX) are unrelated as they comprise distinct steps and utilize different products which demonstrates that each method has a different mode of operation. Each invention performs this function using a structurally and functionally divergent material.

Moreover, the methodology and materials necessary for DNA immunization differ significantly for each of the materials. For DNA immunization, a mammal may be used. For producing recombinant proteins for use *in vivo*, *in vitro* prokaryotic cells may be used. Therefore, each method is divergent in materials and steps. For these reasons, the inventions of Groups XIX and XX are patentably distinct.

Inventions I and Inventions XIX and XX are related as product and process of use. In the instant case, the expression cassette of Group I can be used to make recombinant proteins as in Group XX as opposed to its use in a DNA immunization method in Group XIX.

The examiner argued that searching Groups I and XIX and XX together would impose a serious search burden. The examiner argued that the inventions are classified in different places and that a search for polynucleotides and the method of DNA immunization and method of recombinant proteins are not co-extensive. The examiner argued that Group I encompasses molecules which are claimed in terms of sequence identity in regard to SEQ ID NOS: 30-32, which are not required for the search of either Group XIX or Group XX. In contrast, the search for Group XIX or XX would require a text search for the method of DNA immunization in addition to polynucleotide search of sequences with 90 % sequence identity of SEQ ID NOS: 30-32. Prior art which teaches a polynucleotide that has 90 % sequence identity of SEQ ID NOS: 30-32 would not necessarily be applicable to the method of using sequences having at least 90 % sequence identity of SEQ ID NOS: 30-32. Moreover, even if the polynucleotides were known, the method of DNA immunization or producing recombinant proteins using the product may be novel and unobvious in view of the preamble or active steps.

Next the examiner argued that Inventions II-XVIII and either Inventions XIX or XX are unrelated because the product of Groups II-XVIII is not used or otherwise involved in the process of Group XIX or XX.

In addition, the examiner stated that if applicants elect from Groups I-IV and VII-XIV, a further restriction is required because the Groups read on patentably distinct sequences. The examiner stated that this was a restriction requirement to a single sequence and not an species election requirement. The examiner then listed each group of claims and listed the sequences corresponding to each group and required applicant to pick a group and a sequence from that group.

The examiner stated that there were no claims which encompassed a generic HIV polypeptide, which indicates that the SEQ ID NOS are independent and there is no disclosure of relationship (percent sequence identity) in the specification between the claimed sequences in each group.

The examiner stated that one sequence constitutes a reasonable number for examination purposes under the present conditions. At present, the huge number of submissions of claims directed to various sequences, such as nucleic acids or polypeptides, is so large that the election of one sequence of this type is now deemed to be practically appropriate so as to not overwhelm the examination and search processes for such claims.

Applicants' response filed March 10, 2005 elected Group II and SEQ ID NO: 120. Applicants traversed the requirement on the grounds that it would not be unduly burdensome to search sequences classified in elected Group II together.

Applicants argued that within each Group it is clear that each and every sequence encodes a particular HIV polypeptide. Group II, for instance, includes sequences encoding Env polypeptides. Furthermore, applicants were not aware that the specification was required to set forth the percent sequence identity as between the claimed sequences. Given that they are clearly described as "Env-encoding", their relationship to each other is clear. As indicated in MPEP 803.04, applicant argues, they feel that the MPEP states that they are entitled to have up to ten sequences searched.

Thus, the applicant concluded, all sequences encoding HIV Env proteins may be properly examined together. Furthermore, the homology between the various sequences of Group II is very high, as illustrated by the attached alignment of SEQ ID NOS: 120 and 121. In view of the high degree of homology between the sequences, it would not be burdensome to examine more than one sequence in each group. Certainly, SEQ ID NOS: 120 and 121 are so similar that it would not constitute an undue burden on the Office to examine them together.

On June 2, 2005, the examiner issued a non-final Office action and responded to applicant's arguments for traversal. The examiner argued that MPEP 803.04 is only a guideline and not legally binding. Moreover, the "ten" nucleotide policy evolved in response to the large number of nucleotide sequences being disclosed in SPDI applications, of which this application is clearly not a member. Thus, the examiner concluded that the ten nucleotide sequence guideline is not applicable. Next the examiner stated that currently two criteria exist for the determination of proper restriction requirements. The invention must be independent or distinct as claimed and there must be a serious burden on the examiner if restriction is not required. The examiner stated that the basis for restriction was clearly stated in the previous Office action. Each nucleotide sequence is directed toward structurally different envelope glycoproteins and would require separate searches. Applicants further asserted that the various envelope sequences are closely related, but failed to provide any diagram or sequence alignments demonstrating this fact. The examiner then made the requirement FINAL.

On September 9, 2005, applicants filed a response to the non-final Office action. Applicants argued that the examiner had not met the burden of establishing a proper restriction. Applicants argued that there is a high homology between the sequences and the examiner has not shown that it would impart a serious burden to examine the sequences together. Applicants argued that the examiner had not even shown that the nucleotide sequences encode "structurally different envelope glycoproteins". In fact, the sequences exhibit high homology to each other and a search of the art for sequences relevant to any of SEQ ID NOS: 46, 47, 49, 97, 119, 120, 121, 122, 123, 124, 125, 126, 127, 131, 132, or 133 would necessarily reveal art relevant to the other sequences.

Applicants again directed the examiner to the alignment of SEQ ID NOS: 120 and 121. Applicants also submitted evidence, they stated, to SEQ ID NOS: 46 and 47. They stated that these sequences exhibit high homology to each other.

Applicants stated that in view of the high degree of homology to each other, it is clear that searching the art for the full-length of any of these sequences would necessarily reveal references relevant to all other sequences and, as such, it would not impart a serious burden on the examiner to search them together. They argued that it would be a serious financial burden on them.

The petition to review the restriction requirement mailed January 5, 2005 was filed on September 6, 2005.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition, Applicants request consideration of all of the sequences in Group II, specifically, SEQ ID NOS: 46, 119-127, and 131-133. Applicants petitioned to have all of the sequences in Group II examined and not be limited to just SEQ ID NO: 120.

Applicants reiterated the above record and stated that by the examiner restricting them to a single sequence, the Office has prevented applicants from claiming the full scope of their invention. The applicant then cited legal precedents which refer to lack of unity of invention. Applicants argued that in the case at hand, all Group II sequences share a common utility and possess a substantial structural feature essential to that utility.

Applicants continue to argue that the claimed polynucleotides do not differ in structure or function, but that they differ only in sequence. Accordingly, the assertion that the sequences are structurally different polypeptides is in error and cannot support the restriction. Therefore, applicants concluded that the sequences in group II possess unity according to MPEP 803.02 and that the requirement has prevented applicants from claiming the full scope of their invention and that restriction among the different Env-encoding sequences should be withdrawn. Applicants also argue that the restriction is a (future) financial burden on applicants.

Next applicants state that in reference to the examiner's statement about MPEP 803.04 not applying to SPDI applications that the examiner is incorrect because MPEP 2434 states that applicants can claim up to ten sequences in an application.

Applicants are not correct that the examiner has failed to apply a proper standard for restriction in this case. The examiner has properly established why claims 2-6 and 38-46 read on patentably distinct sequences. The sequences are indeed patentably distinct as is shown by their own sequence listings. A comparison of the different sequences shows that there is no common core between the sequences. If one is to look at the sequences there is no apparent similarity between the different sequences.

As far as applicants' arguments concerning unity of invention, this does not apply in this case since this argument relates to Markush group claims.

In regard to applicant's comments concerning MPEP 803.04 and MPEP 2434, that these citations support applicant's arguments that up to ten sequences can be claimed and examined together,

this is not well taken. Applicant's sequences share no homology whatsoever. As stated above, the sequences differ in their sequences (structures). A review of the sequences themselves reveals this fact. No common core can be found with the sequences. In many of them it is quickly apparent that even the first nucleic acids in the first part of the sequence do not match up with the first nucleic acids in the other sequences. Further, as stated by the examiner in the Office action of June 2, 2005, these citations are only applicable to SPDI applications, of which this application is clearly not.

For these reasons the restriction requirement is found to be proper.

DECISION

Applicants petition under 37 CFR 1.144 is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for further consideration of the reply filed September 9, 2005, not inconsistent with this decision.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date thereof in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

George C. Elliott

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Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Philip H. Schreiber et al. :
Application No. 09/899,588 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. Schreiber 899,588

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 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 24, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy